

Panaji, 3rd August, 2023 (Shravana 12, 1945)

SERIES I No. 18

OFFICIAL GOVERNMENT OF GOA GAZETTE



PUBLISHED BY AUTHORITY

SUPPLEMENT

GOVERNMENT OF GOA Goa Legislature Secretariat

Notification

LA/LEGN/2023/1381

The following bill which was introduced in the Legislative Assembly of the State of Goa on 20th July, 2023 is hereby published for general information in pursuance of Rule-138 of the Rules of Procedure and Conduct of Business of the Goa Legislative Assembly.

The Goa Succession, Special Notaries and Inventory Proceeding (Amendment) Bill, 2023

(Bill No. 26 of 2023)

A

BILL

further to amend the Goa Succession, Special Notaries and Inventory Proceeding Act, 2012 (Goa Act 23 of 2016).

BE it enacted by the Legislative Assembly of Goa in the Seventy-fourth Year of the Republic of India as follows:-

1. *Short title and commencement.*— (1) This Act may be called the Goa Succession,

Special Notaries and Inventory Proceeding (Amendment) Act, 2023.

(2) It shall be deemed to have come into force on 21st day of December, 2016.

2. *Amendment of section 52.*— In section 52 of the Goa Succession, Special Notaries and Inventory Proceeding Act, 2012 (Goa Act 23 of 2016) (hereinafter referred to as the “principal Act”),—

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) The legal succession shall devolve in the following order:-

(i) on the descendants;

(ii) on the surviving spouse;

(iii) on the ascendants, subject to the provisions of sub-section (2) of section 72;

(iv) on the brothers and sisters and their descendants;

(v) on the collaterals not comprised in clause (iv) upto the 6th degree;

(vi) on the State, provided that, in the absence of testamentary or intestate heir of a beneficial owner or of an emphyteusis, the property shall revert to the direct owner.

Explanation.— The provisions of this sub-section as amended by the Goa Succession,

Special Notaries and Inventory Proceeding (Amendment) Act, 2023 shall be applicable to the cases/appeals pending before different courts, however the said amendment shall not disturb the rights which got crystallized before the enactment of the said Act, 2023.”.

(ii) in sub-section (2), for the expression “clauses (i), (ii) and (iii) of sub-section (1)”, the expression “clauses (i), (iii) and (iv) of sub-section (1)” shall be substituted.

3. *Amendment of section 72.*— In section 72 of the principal Act,—

(i) sub-section (1), for the expression “Where a person dies without descendants, his father and mother shall succeed to him”, the expression “Where a person dies without descendants and spouse, his father and mother shall succeed to him” shall be substituted;

(ii) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) Where the parents have acknowledged that they are the parents of a child during the lifetime of the child, and the child dies without issue and spouse, the inheritance shall devolve upon his parents or one of them, as the case may be; where, in the circumstances mentioned above, such child dies without issue but leaving a surviving spouse, the surviving spouse shall succeed to the entire inheritance.”.

4. *Substitution of section 76.*— For section 76 of the principal Act, the following section shall be substituted, namely:—

“76. *Succession of brothers, sisters and their descendants.*— In default of descendants, spouse and ascendants and where the estate leaver has not disposed off his assets, his brothers, sisters and, in a representative capacity, their descendants, shall inherit the assets.”.

5. *Amendment of section 77.*— In section 77 of the principal Act, for the expression “In default of descendants, ascendants,

brothers, sisters and their descendants, the surviving spouse shall succeed,”, the expression “In default of descendants, the surviving spouse shall succeed,” shall be substituted.

6. *Substitution of section 83.*— For section 83 of the principal Act, the following section shall be substituted, namely:—

“83. *Disposable portion.*— The portion which the testator may freely dispose off shall be called the disposable portion and it shall consist of half of the estate of the estate leaver, except as provided hereunder:—

(a) *Legitime of the descendants:* Where the estate leaver has children or descendants at the time of his death, their legitime shall consist of half of the inheritance.

(b) *Legitime of the spouse:* Where the estate leaver has no children or descendants at the time of his death but his spouse is alive, her legitime shall consist of entire inheritance.

(c) *Legitime of the parents:* Where the estate leaver has no children or descendants and spouse at the time of his death but either his mother or father is alive, their legitime shall consist of entire inheritance.

(d) *Legitime of other ascendants:* Where the estate leaver has at the time of his death ascendants other than the father or mother, their legitime shall consist of one third of the inheritance.”.

Statement of Objects and Reasons

The order of legal succession as laid down under sub-section (1) of section 52 of the Goa Succession, Special Notaries and Inventory Proceeding Act, 2012 (Goa Act 23 of 2016) (hereinafter referred to as the “said Act”) was rectified by carrying out an amendment to said sub-section (1) of section 52 vide the Goa Succession, Special Notaries and Inventory Proceeding (Amendment) Act, 2022 (Goa Act 13 of 2022). The said

Amendment Act, 2022 came into force with effect from 8th day of November, 2022. The Bill now seeks to make provision for making applicable amendment to said sub-section (1) of section 52 to pending cases/appeals, however the said amendment shall not disturb the rights which got crystallized before the enactment of this legislation. The amendments as proposed to sections 72, 76, 77 and 83 of the said Act are consequential amendments which are made to bring the provisions contained in said sections in consonance with the provisions of section 52 of the said Act as amended.

This Bill seeks to achieve the above object.

Financial Memorandum

No financial implications are involved in this Bill.

Memorandum Regarding Delegated Legislation

No delegated legislation is envisaged in this Bill.

Porvorim, Goa.
____ July, 2023.

NILESH CABRAL
Minister for Law and Judiciary.

Assembly Hall,
Porvorim, Goa.
____ July, 2023.

NAMRATA ULMAN
Secretary to the Legislative
Assembly of Goa.

ANNEXURE

Name of The Bill: The Goa Succession, Special Notaries and Inventory Proceeding (Amendment) Bill, 2023.

Sr. No.	Existing Provision	Amendment proposed in the Bill	Justification for amendment
1	2	3	4
1.	<p>Section 52. Order of legal succession.— (1) The legal succession shall devolve in the following order:—</p> <p>(i) on the descendants;</p> <p>(ia) on the surviving spouse;</p> <p>(ii) on the ascendants, subject to the provisions of sub-section (2) of section 72;</p> <p>(iii) on the brothers and their descendants;</p> <p>(iv) on the collaterals not comprised in clause (iii) upto the 6th degree;</p> <p>(vi) on the State, provided that, in the absence of testamentary</p>	<p>Amendment of section 52.— In section 52 of the Goa Succession, Special Notaries and Inventory Proceeding Act, 2012 (Goa Act 23 of 2016) (hereinafter referred to as the “principal Act”),-</p> <p>(i) for sub-section (1), the following sub-section shall be substituted, namely:-</p> <p>“(1) The legal succession shall devolve in the following order :-</p> <p>(i) on the descendants;</p> <p>(ii) on the surviving spouse;</p> <p>(iii) on the ascendants, subject to the provisions of sub-section (2) of section 72;</p>	<p>The order of legal succession as laid down under sub-section (1) of section 52 of the Goa Succession, Special Notaries and Inventory Proceeding Act, 2012 (Goa Act 23 of 2016) (herein-after referred to as the “said Act”) was rectified by carrying out an amendment to said sub-section (1) of section 52 vide the Goa Succession,</p>

1	2	3	4
	<p>or intestate heir of a beneficial owner or of an emphyteusis, the property shall revert to the direct owner.</p> <p>(2) In respect of persons referred to in clauses (i), (ii) and (iii) of sub-section (1), the agricultural produce or fruits, gathered or growing, meant and necessary for the maintenance of the couple shall be deemed to be the personal property of the surviving spouse, provided that on the date of the opening of the inheritance there is no suit for divorce or separation of persons and properties, pending or decreed.</p>	<p>(iv) on the brothers and sisters and their descendants;</p> <p>(v) on the collaterals not comprised in clause (iv) upto the 6th degree;</p> <p>(vi) on the State, provided that, in the absence of testamentary or intestate heir of a beneficial owner or of an emphyteusis, the property shall revert to the direct owner.</p> <p><i>Explanation:-</i> The provisions of this sub-section as amended by the Goa Succession, Special Notaries and Inventory Proceeding (Amendment) Act, 2023 shall be applicable to the cases/appeals pending before different courts, however the said amendment shall not disturb the rights which got crystallised before the enactment of the said Act, 2023."</p> <p>(ii) in sub-section (2), for the expression "clauses (i), (ii) and (iii) of sub-section (1)", the expression "clauses (i), (iii) and (iv) of sub-section (1)" shall be substituted.</p>	<p>Special Notaries and Inventory Proceeding (Amendment) Act, 2022 (Goa Act 13 of 2022). The said Amendment Act, 2022 came into force with effect from 8th day of November, 2022. The Bill now seeks to make provision for making applicable amendment to said sub-section (1) of section 52 to pending cases/appeals, however the said amendment shall not disturb the rights which got crystallized before the enactment of this legislation. The amendments as proposed to sections 72, 76, 77 and 83 of the said Act are consequential amendments which are made to bring the provisions contained in said sections in consonance with the provisions of section 52 of the said Act as amended.</p>

2. **Section 72. Succession of parents.**— (1) Where a person dies without descendants, his father and mother shall succeed to him in equal shares or to the entire inheritance where only one of them is living.
- Section 72 (3). Where the parents have acknowledged that they are the parents of a child during the lifetime of the child, and the child dies without issue, the

Amendment of section 72.— In section 72 of the principal Act,-

- (i) in sub-section (1), for the expression "where a person dies without descendent, his father and mother shall succeed to him", the expression, "where a person dies without descendent and spouse, his father and mother shall succeed to him" shall be substituted;

1	2	3	4
	inheritance shall devolve upon his parents or one of them, as the case may be; where, in the circumstances mentioned above, such child dies without issue but leaving a surviving spouse, the surviving spouse shall have the right to usufruct of half of the inheritance.	(ii) for sub-section (3), the following sub-section shall be substituted, namely:- “(3) Where the parents have acknowledged that they are the parents of a child during the lifetime of the child, and the child dies without issue and spouse, the inheritance shall devolve upon his parents or one of them, as the case may be; where, in the circumstances mentioned above, such child dies without issue but leaving a surviving spouse, the surviving spouse shall succeed to the entire inheritance.”.	
3.	Section 76. Succession of brothers, sisters and their descendants. — In default of descendants and ascendants and where the estate leaver has not disposed off his assets, his brothers, sisters and, in a representative capacity, their descendants, shall inherit the assets. However, the surviving spouse shall be the usufructuary of the estate of the deceased spouse irrespective of their matrimonial regime, if at the time of the death of the latter they were not divorced or there was no judicial separation by a decision that had become final.	Substitution of section 76. — For section 76 of the principal Act, the following section shall be substituted, namely:- “76. Succession of brothers, sisters and their descendants.- In default of descendants, spouse and ascendants and where the estate leaver has not disposed off his assets, his brothers, sisters and, in a representative capacity, their descendants, shall inherit the assets.”.	
4.	Section 77. Succession of surviving spouse. — In default of descendants, ascendants, brothers, sisters and their descendants, the	Amendment of section 77. — In section 77 of the principal Act, for the expression “In default of descendants, ascendants, brothers, sisters and their descendants, the	

1	2	3	4
	surviving spouse shall succeed, provided that at the time of the death of the other spouse, they were not divorced or there had been no judicial separation of spouses and assets by a decision which had become final.	surviving spouse shall succeed," the expression "In default of descendants, the surviving spouse shall succeed," shall be substituted.	
	<p>83. Disposable portion.— The portion which the testator may freely dispose off shall be called the disposable portion and it shall consist of half of the estate of the estate leaver, except as provided hereunder:—</p> <p>(a) Legitime of the parents: Where the estate leaver has no children or descendants at the time of his death but either his mother or father is alive, the legitime of the surviving parents shall consist of half of the inheritance.</p> <p>(b) Legitime of other ascendants: Where the estate leaver has at the time of his death ascendants other than the father or mother their legitime shall consist of one third of the inheritance.</p>	<p>Substitution of section 83.— For section 83 of the principal Act, the following section shall be substituted, namely:-</p> <p>"83. Disposable portion.— The portion which the testator may freely dispose off shall be called the disposable portion and it shall consist of half of the estate of the estate leaver, except as provided hereunder:-</p> <p>(a) Legitime of the descendants: Where the estate leaver has children or descendants at the time of his death, their legitime shall consist of half of the inheritance.</p> <p>(b) Legitime of the spouse: Where the estate leaver has no children or descendants at the time of his death but his spouse is alive, her legitime shall consist of entire inheritance.</p> <p>(c) Legitime of the parents: Where the estate leaver has no children or descendants and spouse at the time of his death but either his mother or father is alive, their legitime shall consist of entire inheritance.</p> <p>(d) Legitime of other ascendants: Where the estate leaver has at the time of his death ascendants other than the father or mother, their legitime shall consist of one third of the inheritance."</p>	

Notification

LA/LEGN/2023/1446

The following bill which was introduced in the Legislative Assembly of the State of Goa on 31st July, 2023 is hereby published for general information in pursuance of Rule-138 of the Rules of Procedure and Conduct of Business of the Goa Legislative Assembly.

**The Goa Co-operative Societies
(Second Amendment) Bill, 2023**

(BILL No. 28 of 2023)

A

BILL

further to amend the Goa Co-operative Societies Act, 2001 (Goa Act 36 of 2001).

BE it enacted by the Legislative Assembly of Goa in the Seventy-fourth Year of the Republic of India as follows:-

1. *Short title and commencement.*— (1) This Act may be called the Goa Co-operative Societies (Second Amendment) Act, 2022.

(2) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

2. *Substitution of section 24.*— In the Goa Co-operative Societies Act, 2001 (Goa Act 36 of 2001) (hereinafter referred to as the “principal Act”, for section 24, the following section shall be substituted, namely:—

“24. *Cessation of membership.*— (1) A person shall cease to be a member of a society on his resignation from the membership, or on the transfer of the whole of his share or interest in the society to another member, or on his death, or removal or expulsion from the society, or ceasing to hold the qualification for the membership under the bye-laws of the society, or where a firm, company, any other corporate body, society or trust is a member, on its dissolution or ceasing to exist.

(2) The member may resign from the membership of the society by writing under his hand a letter on a plain paper addressed and submitted to the Chairman and in his absence, to the Vice Chairman, and in their absence to the Chief Executive.

(3) Resignation of member shall become effective on expiry of ten days from the date of submission of resignation letter under sub-section (2) unless before expiry of the said period he withdraws such resignation by writing under his hand a letter addressed to the Chairman, Vice-Chairman or Chief Executive, as the case may be.”.

3. *Amendment of section 42.*— In section 42 of the principal Act, (i) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) Notwithstanding anything contained in any other provisions of this Act or any other Act for the time being in force, every co-operative society, the primary object of which is to create funds for lending money to its members, shall at all times abide by the following conditions, namely:—

(a) loan shall not be sanctioned to any person who is not a citizen of India;

(b) the rate of interest charged for any kind of loan shall not be more than thirteen per cent per annum;

(c) in case of default in repayment of any loan, the penal interest chargeable shall not be more than two per cent per annum over and above the rate of interest applicable to the loan as per sanctioning terms;

(d) the processing fees payable by whatever name called for processing and sanctioning of any loan shall not exceed 0.25% of the loan amount sanctioned and such processing fees shall not be charged more than once for any loan account;

(e) interest on all types of loans shall be charged at every quarter ending with June, September, December and March

or monthly basis as may be decided by the board of directors from time to time;

(f) there shall be no other charges or hidden costs while sanctioning of any loan except in accordance with this section.”;

(ii) after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) Where the Registrar is satisfied that any society has failed to abide by any condition specified in sub-section (2), he may take following action against the person responsible, namely:—

(a) if such person is a member of the committee of the society, by order remove him from the committee and appoint any other person as a member of the committee for the remainder of the term of his office and declare him to be disqualified to be such member for a period of six years from the date of the order;

(b) if such person is an employee of the society, by order direct the committee to remove such person from employment of the society forthwith, and if any member or members of the committee, without any justifiable reason fail to comply with such order, remove the member and appoint any other person/s as member/s and declare them disqualified as provided in clause (a) above;

(c) if any member of board is responsible for any violation of the conditions imposed under sub-section (2), take the cognizance of such violation and after giving due opportunity to the member concerned of being heard, may disqualify him to continue on the board for the remainder term. The member so disqualified shall be ineligible for being chosen as a director of said society forever:

Provided that before passing any order under this sub-section, the Registrar shall give a reasonable opportunity of

being heard to the person or persons concerned and consult the federal society to which the society is affiliated.

(4) Order passed by the Registrar under sub-section (3) shall be final.”.

4. *Amendment of section 67.*— In section 67 of the principal Act,—

(i) for sub-section (4), the following sub-section shall be substituted, namely:—

“(4) Any member of the board may resign his office by writing under his hand a letter on a plain paper addressed and submitted to the Chairman and the Chairman may resign his office by writing under his hand a letter on a plain paper addressed and submitted to the Chief Executive. In the event of resignation of office bearer, the election of new office bearer shall be done in accordance with the provisions of bye-laws of the society. In the event where the resignation is from majority of the members on the board including the Chairman, or otherwise, such resignations shall be handed over to the Chief Executive who shall forward the same to the Registrar. The Registrar, after receiving the resignations of the majority of the members of the board shall assess the situation and decide the course of action in accordance with the provisions of the Act.”;

(ii) after sub-section (4), the following sub-sections shall be inserted, namely:—

“(5) Resignation under sub-section (4) shall become effective on expiry of ten days from the date of submission of resignation letter under sub-section (4), unless before the expiry of said period of ten days such member by writing under his hand a letter addressed to the Chairman, Vice-Chairman, Chief Executive or the Registrar, as the case may be, withdraws his resignation.

(6) The member of the board shall be deemed to have vacated his post and he shall cease to hold such post from the date his resignation becoming effective under sub-section (5).

(7) After such resignation becoming effective, the Chief Executive shall within seven days convene a meeting of board and place such resignation for information of the board.

(8) The Chief Executive shall submit a detailed report of the vacancy arising due to resignation to the Registrar within 15 days from the date of resignation becoming effective.

(9) The member who has resigned from the post of director or office bearer shall not be subject to any duties or liabilities of such post under this Act or Rules or bye-laws of the Society concerned from the date of his resignation becoming effective under this section.

(10) Notwithstanding the fact that a member has resigned from the post of director or office bearer of Society, all outstanding dues payable by him as on the date of his resignation taking effect shall be paid by such member to the Society failing which the same shall be recovered from him in the same manner as provided under this Act for recovery from a member of the Society.

(11) In the event of such post of director or office bearer as the case may be falling vacant, the same shall be filled in accordance with the provisions of this Act and the rules as may be applicable.”.

5. *Amendment of section 74.*— In section 74 of the principal Act, in sub-section (9), after the second proviso, the following proviso shall be inserted, namely:—

“Provided also that in any case of the above societies, if there is no paid employee or if the employee/s available and/or the Chief Executive is, in the opinion of the board of directors not capable of preparing such statement of accounts and audit report as required under sub-section (9) of this section, then, the board of directors may adopt a resolution to appoint an Auditor from the panel of Auditors prepared under this section and obtain audit report instead of statement of accounts by the chief executive and may comply with the provisions of sub-section (9) by using such audit report in place of statement of account by chief executive.”.

Statement of Objects and Reasons

The Bill seeks to substitute section 24 of the Goa Co-operative Societies Act, 2001 (Goa Act 36 of 2001) (hereinafter referred to as the “said Act”), so as to afford an opportunity for the member to resign from the membership of the society incase if the individual member concerned doesn’t want the membership.

The Bill also seeks to amend section 42 of the said Act so as to regulate standard pattern to frame loan policies applicable to the resource societies and to curb down unfair practices for better functioning of resource societies in a transparent manner.

The Bill also seeks to amend section 67 of the said Act, so as to remove the technical difficulties in accepting the resignation.

The Bill also seeks to insert a proviso in sub-section (9) of Section 74 of the said Act so as to enable preparation of Audit by Auditor from Panel of Auditors and get audit done in a speedy manner.

This Bill seeks to achieve the above objects.

Financial Memorandum

No financial implications are involved in this Bill.

Memorandum Regarding Delegated
Legislation

No delegated legislation is envisaged in this Bill.

Place:- Porvorim-Goa. SUBHASH SHIRODKAR
Dated:- 25th July, 2023. Minister for
Co-operation

Assembly Hall, NAMRATA ULMAN
Porvorim, Goa. Secretary to the
Dated:- 25th July, 2023. Legislative
Assembly of Goa.

Notification

LA/LEGN/2023/1447

The following bill which was introduced in the Legislative Assembly of the State of Goa on 31st July, 2023 is hereby published for general information in pursuance of Rule-138 of the Rules of Procedure and Conduct of Business of the Goa Legislative Assembly.

The Goa Goods and Services
Tax (Amendment) Bill, 2023

(Bill No. 29 of 2023)

A

BILL

further to amend the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017).

BE it enacted by the Legislative Assembly of Goa in the Seventy-fourth Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Goa Goods and Services Tax (Amendment) Act, 2023.

(2) Save as otherwise provided in this Act, the provisions of this Act shall come into force on such date as the Government may, by notification in the Official Gazette appoint and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of

this Act shall be construed as a reference to the coming into force of that provision.

2. *Amendment of section 10.*—In the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017) (hereinafter referred to as the “principal Act”), in section 10,—

(i) in sub-section (2), in clause (d), the words “goods or” shall be omitted;

(ii) in sub-section (2A), in clause (c), the words “goods or” shall be omitted.

3. *Amendment of section 16.*— In section 16 of the principal Act, in sub-section (2),—

(i) in the second proviso, for the expression “added to his output tax liability, along with interest thereon”, the expression “paid by him along with interest payable under section 50” shall be substituted;

(ii) in the third proviso, after the words “made by him”, the words “to the supplier” shall be inserted.

4. *Amendment of section 17.*— In section 17 of the principal Act,—

(i) in sub-section (3), in the *Explanation*, for the expression “except those specified in paragraph 5 of the said Schedule”, the following expression shall be substituted, namely:—

“except,—

(i) the value of activities or transactions specified in paragraph 5 of the said Schedule; and

(ii) the value of such activities or transactions as may be prescribed in respect of clause (a) of paragraph 8 of the said Schedule.”;

(ii) in sub-section (5), after clause (f), the following clause shall be inserted, namely:—

“(fa) goods or services or both received by a taxable person, which are used or intended to be used for activities relating to his obligations under corporate social responsibility referred to

in section 135 of the Companies Act, 2013 (Act 18 of 2013);”.

5. *Amendment of section 23.*— In section 23 of the principal Act, for sub-section (2), the following sub-section shall be substituted and shall be deemed to have been substituted with effect from the 1st day of July, 2017, namely:—

“(2) Notwithstanding anything to the contrary contained in sub-section (1) of section 22 or section 24, the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, specify the category of persons who may be exempted from obtaining registration under this Act.”.

6. *Amendment of section 30.*— In section 30 of the principal Act, in sub-section (1),—

(i) for the expression “the prescribed manner within thirty days from the date of service of the cancellation order:”, the expression “such manner, within such time and subject to such conditions and restrictions, as may be prescribed.” shall be substituted;

(ii) the proviso shall be omitted.

7. *Amendment of section 37.*— In section 37 of the principal Act, after sub-section (4), the following sub-section shall be inserted, namely:—

“(5) A registered person shall not be allowed to furnish the details of outward supplies under sub-section (1) for a tax period after the expiry of a period of three years from the due date of furnishing the said details:

Provided that the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish the details of outward supplies for a tax period under

sub-section (1), even after the expiry of the said period of three years from the due date of furnishing the said details.”.

8. *Amendment of section 39.*— In section 39 of the principal Act, after sub-section (10), the following sub-section shall be inserted, namely:—

“(11) A registered person shall not be allowed to furnish a return for a tax period after the expiry of a period of three years from the due date of furnishing the said return:

Provided that the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish the return for a tax period, even after the expiry of the said period of three years from the due date of furnishing the said return.”.

9. *Amendment of section 44.*— In section 44 of the principal Act,—

(i) the existing provision shall be numbered as sub-section (1);

(ii) after sub-section (1) so numbered, the following sub-section shall be inserted, namely:—

“(2) A registered person shall not be allowed to furnish an annual return under sub-section (1) for a financial year after the expiry of a period of three years from the due date of furnishing the said annual return:

Provided that the Government may, on the recommendations of the Council, by notification, and subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish an annual return for a financial year under sub-section (1), even after the expiry of the said period of three

years from the due date of furnishing the said annual return.”.

10. *Amendment of section 52.*— In section 52 of the principal Act, after sub-section (14), the following sub-section shall be inserted, namely:—

“(15) The operator shall not be allowed to furnish a statement under sub-section (4) after the expiry of a period of three years from the due date of furnishing the said statement:

Provided that the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, allow an operator or a class of operators to furnish a statement under sub-section (4), even after the expiry of the said period of three years from the due date of furnishing the said statement.”.

11. *Amendment of section 54.*— In section 54 of the principal Act, in sub-section (6), the expression “excluding the amount of input tax credit provisionally accepted,” shall be omitted.

12. *Amendment of section 56.*— In section 56 of the principal Act, for the words “from the date immediately after the expiry of sixty days from the date of receipt of application under the said sub-section till the date of refund of such tax”, the expression “for the period of delay beyond sixty days from the date of receipt of such application till the date of refund of such tax, to be computed in such manner and subject to such conditions and restrictions as may be prescribed” shall be substituted.

13. *Amendment of section 62.*— In section 62 of the principal Act, in sub-section (2),—

(i) for the words “thirty days”, the words “sixty days” shall be substituted;

(ii) the following proviso shall be inserted, namely:—

“Provided that where the registered person fails to furnish a valid return

within sixty days of the service of the assessment order under sub-section (1), he may furnish the same within a further period of sixty days on payment of an additional late fee of one hundred rupees for each day of delay beyond sixty days of the service of the said assessment order and in case he furnishes valid return within such extended period, the said assessment order shall be deemed to have been withdrawn, but the liability to pay interest under sub-section (1) of section 50 or to pay late fee under section 47 shall continue.”.

14. *Substitution of section 109.*— For section 109 of the principal Act, the following section shall be substituted, namely:—

“109. *Constitution of Appellate Tribunal and Benches thereof.*— Subject to the provisions of this Chapter, the Goods and Services Tax Tribunal constituted under the Central Goods and Services Tax Act, 2017 (Central Act 12 of 2017) shall be the Appellate Tribunal for hearing appeals against the orders passed by the Appellate Authority or the Revisional Authority under this Act.”.

15. *Omission of sections 110 and 114.*— sections 110 and 114 of the principal Act shall be omitted.

16. *Amendment of section 117.*— In section 117 of the principal Act,—

(i) in sub-section (1), for the words “State Bench or Area Benches”, the words “State Benches” shall be substituted;

(ii) in sub-section (5), in clauses (a) and (b), for the words “State Bench or Area Benches”, the words “State Benches” shall be substituted.

17. *Amendment of section 118.*— In section 118 of the principal Act, in sub-section (1), in clause (a), for the words “National Bench or Regional Benches”, the words “Principal Bench” shall be substituted.

18. *Amendment of section 119.*— In section 119 of the principal Act,—

(i) for the words “National or Regional Benches”, the words “Principal Bench” shall be substituted;

(ii) for the words “State Bench or Area Benches”, the words “State Benches” shall be substituted.

19. *Amendment of section 122.*— In section 122 of the principal Act, after sub-section (1A), the following sub-section shall be inserted, namely:—

“(1B) Any electronic commerce operator who,—

(i) allows a supply of goods or services or both through it by an unregistered person other than a person exempted from registration by a notification issued under this Act to make such supply;

(ii) allows an inter-State supply of goods or services or both through it by a person who is not eligible to make such inter-State supply; or

(iii) fails to furnish the correct details in the statement to be furnished under sub-section (4) of section 52 of any outward supply of goods effected through it by a person exempted from obtaining registration under this Act,

shall be liable to pay a penalty of ten thousand rupees, or an amount equivalent to the amount of tax involved had such supply been made by a registered person other than a person paying tax under section 10, whichever is higher.”.

20. *Amendment of section 132.*— In section 132 of the principal Act, in sub-section (1),—

(i) clauses (g), (j) and (k) shall be omitted;

(ii) in clause (l), for the expression, “clauses (a) to (k)”, the expression “clauses (a) to (f) and clauses (h) and (i)” shall be substituted;

(iii) in clause (iii), for the expression “any other offence”, the expression “an offence specified in clause (b),” shall be substituted;

(iv) in clause (iv), the expression “or clause (g) or clause (j)” shall be omitted.

21. *Amendment of section 138.*— In section 138 of the principal Act,—

(i) in sub-section (1), in the first proviso,—

(a) for clause (a), the following clause shall be substituted, namely:—

“(a) a person who has been allowed to compound once in respect of any of the offences specified in clauses (a) to (f), (h), (i) and (l) of sub-section (1) of section 132;”;

(b) clause (b) shall be omitted;

(c) for clause (c), the following clause shall be substituted, namely:—

“(c) a person who has been accused of committing an offence under clause (b) of sub-section (1) of section 132;”;

(d) clause (e) shall be omitted;

(ii) in sub-section (2), for the expression “ten thousand rupees or fifty per cent. of the tax involved, whichever is higher, and the maximum amount not being less than thirty thousand rupees or one hundred and fifty percent. of the tax, whichever is higher”, the expression “twenty-five percent. of the tax involved and the maximum amount not being more than one hundred percent. of the tax involved” shall be substituted.

22. *Insertion of new section 158A.*— After section 158 of the principal Act, the following section shall be inserted, namely:—

“158A. *Consent based sharing of information furnished by taxable person.*—

(1) Notwithstanding anything contained in sections 133, 152 and 158, the following details furnished by a registered person may, subject to the provisions of sub-section (2), and on the recommendations of the Council, be shared by the common portal with such other systems as may be notified by the Government, in such

manner and subject to such conditions as may be prescribed, namely:—

(a) particulars furnished in the application for registration under section 25 or in the return filed under section 39 or under section 44;

(b) the particulars uploaded on the common portal for preparation of invoice, the details of outward supplies furnished under section 37 and the particulars uploaded on the common portal for generation of documents under section 68;

(c) such other details as may be prescribed.

(2) For the purposes of sharing details under sub-section (1), the consent shall be obtained, of—

(a) the supplier, in respect of details furnished under clauses (a), (b) and (c) of sub-section (1); and

(b) the recipient, in respect of details furnished under clause (b) of sub-section (1), and under clause (c) of sub-section (1) only where such details include identity information of the recipient, in such form and manner as may be prescribed.

(3) Notwithstanding anything contained in any law for the time being in force, no action shall lie against the Government or the common portal with respect to any liability arising consequent to information shared under this section and there shall be no impact on the liability to pay tax on the relevant supply or as per the relevant return.”.

23. Retrospective exemption to certain activities and transactions in Schedule III.—

(1) In Schedule III to the principal Act, paragraphs 7 and 8 and the *Explanation 2* thereof (as inserted *vide* section 32 of Goa Act 4 of 2019) shall be deemed to have been inserted therein with effect from the 1st day of July, 2017.

(2) No refund shall be made of all the tax which has been collected, but which would not have been so collected, had sub-section (1) been in force at all material times.

Statement of Objects and Reasons

The Bill seeks to amend section 10 of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017) Act so as to remove the restriction imposed on registered persons engaged in supplying goods through electronic commerce operators from opting to pay tax under the composition levy.

The Bill seeks to amend section 16 of the said Act to align with the return filing system provided in the said Act.

The Bill seeks to amend Explanation to sub-section (3) of section 17 of the said Act so as to restrict availment of input tax credit in respect of certain transactions specified in clause (a) of paragraph 8 of Schedule III of the said Act, as may be provided by rules, by including the value of such transactions in the value of exempt supply.

The Bill seeks to amend sub-section (5) of section 17 of the said Act so as to provide that input tax credit shall not be available in respect of goods or services or both received by a taxable person which are used or intended to be used for activities relating to his obligations under corporate social responsibility referred to in section 135 of the Companies Act, 2013.

The Bill seeks to amend section 23 of the said Act with effect from the 1st day of July, 2017, in order to clarify that provisions of section 23 override the sub-section (1) of section 22 and section 24.

The Bill seeks to amend section 30 of the said Act so as to enable to provide for the time period within which the persons can apply for revocation of cancellation of the registration.

The Bill seeks to insert a new sub-section (5) in section 37 of the said Act so as to provide a time limit of three years upto which the details of outward supplies under sub-section (1) of the said section for a tax period can be furnished by a registered person. It

further seeks to empower the Government, to extend by notification, the said time limit on the recommendation of the Council, for a registered person or a class of registered persons, subject to certain conditions and restrictions, as may be specified.

The Bill seeks to insert a new sub-section (11) to section 39 of the said Act so as to provide a time limit of three years upto which the return for a tax period can be furnished by a registered person. It further seeks to empower the Government, to extend by notification, the said time limit on the recommendation of the council, for a registered person or a class of registered persons, subject to certain conditions and restrictions, as may be specified.

The Bill seeks to insert a new sub-section (2) to section 44 of the said Act so as to provide a time limit of three years upto which the annual return under sub-section (1) of said section 44 for a financial year can be furnished by a registered person. It further seeks to empower the Government, to extend by notification, the said time limit on the recommendation of the Council, for a registered person or a class of registered persons, subject to certain conditions and restrictions, as may be specified.

The Bill seeks to insert a new sub-section (15) in section 52 of the said Act so as to provide a time limit of three years upto which the statement under sub-section (4) of the said section 52 for a month can be furnished by an electronic commerce operator. It further seeks to empower the Government, to extend by notification, the said time limit on the recommendation of the Council, for an operator or a class of operators, subject to certain conditions and restrictions, as may be specified.

The Bill seeks to amend sub-section (6) of section 54 of the said Act so as to align the same with the present scheme of availment of self-assessed input tax credit as per sub-section (1) of section 41 of the said Act.

The Bill seeks to amend section 56 of the said Act so as to provide by rules the manner of computation of period of delay for calculation of interest on delayed refunds.

The Bill seeks to amend section 62 of the said Act so as to increase the time period for filing of return for enabling deemed withdrawal of such best judgment assessment order, from the present 30 days to 60 days, extendable by another 60 days.

The Bill seeks to amend section 109 of the said Act so as to provide that the Goods and Services Tax Tribunal constituted under the Central Goods and Services Tax Act, 2017 shall be the Appellate Tribunal for hearing appeals against the orders passed by the Appellate Authority or the Revisional Authority under said Act.

The Bill seeks to omit section 110 and section 114 of the said Act and amend section 117, 118 and 119 of the said Act in view of the amendment to section 109 of the said Act.

The Bill seeks to amend section 122 of the said Act so as to provide for penal provisions applicable to electronic commerce operators in case of contravention of provisions relating to supplies of goods or services made through them by unregistered persons or composition tax payers.

The Bill seeks to amend sub-section (1) of section 132 of the said Act so as to decriminalise offences specified in clauses (g), (j) and (k) of the said sub-section and to increase the monetary threshold from one hundred lakh rupees to two hundred lakh rupees for launching prosecution for the offences under the said Act, except for the offences related to issuance of invoices without supply of goods or services or both.

The Bill seeks to amend section 138 of the said Act so as to exclude the persons involved in offences relating to issuance of invoices without supply of goods or services or both from the option of compounding of the

offences under the said Act. It further seeks to amend sub-section (2) of said section 138 so as to rationalise the amount for compounding of various offences by reducing the minimum as well as maximum amount for compounding.

The Bill seeks to insert a new section 158A in the said Act so as to provide for the manner and conditions for sharing of the information furnished by the registered person in his application for registration or in his return filed or in his statement of outward supplies, or the details uploaded by him for generation of electronic invoice or E-way Bill or any other details, as may be provided by rules, on the common portal with such other systems, as may be notified.

The Bill seeks to amend Schedule III to the said Act to give retrospective applicability to paragraphs 7 and 8 and the Explanation 2 to the said Schedule with effect from the 1st day of July, 2017.

Financial Memorandum

The proposed Goa Goods and Services Tax (Amendment) Bill, 2023 does not involve any recurring or non-recurring expenditure from the Consolidated Fund of the State.

Memorandum Regarding Delegated Legislation

Clause 1(2) of the Bill empowers the Government to issue notification appointing a date for brining into force the Act.

Clause 4 of the Bill seeks empowers the Government to specify by rules the value of activities or transactions in respect of clause (a) of paragraph 8 of Schedule III.

Clause 5 of the Bill empowers the Government to issue notification for specifying, the category of persons who may be exempted from obtaining registration under this Act and conditions and restrictions thereof.

Clause 6 of the Bill empowers the Government to frame rules for prescribing the manner and time for making application for revocation of cancellation of registration.

Clause 7 of the Bill seeks to empowers the Government to issue notification for specifying conditions and restrictions for allowing a registered person or a class of registered persons to furnish the details of outward supplies for a tax period even after the expiry of three years from the due date of furnishing the said details.

Clause 8 of the Bill empowers the Government to issue notification for specifying conditions and restrictions for allowing a registered person or a class of registered persons to furnish the return for a tax period even after the expiry of three years from the due date of furnishing the said return.

Clause 9 of the Bill empowers the Government to issue notification for specifying conditions and restrictions for allowing a registered person or a class of registered persons to furnish an annual return for a financial year even after the expiry of three years from the due date of furnishing the said annual return.

Clause 10 of the Bill empowers the Government to issue notification for specifying conditions and restrictions for allowing an e-commerce operator or a class of e-commerce operators to furnish a statement even after the expiry of three years from the due date of furnishing the said statement.

Clause 12 of the Bill empowers the Government to frame rules for prescribing the manner of computing the interest payable in respect of refund and conditions and restrictions thereof.

Clause 22 of the Bill empowers the Government to frame rules for prescribing the manner in which and the conditions subject to which the details may be shared by the

common portal with such other systems notified by the Government.

Clause 22 of the Bill also empowers the Government to frame rules for prescribing the form and manner in which the consent of the supplier and the recipient to be obtained.

These delegations are of normal character.

Assembly Hall, SHRI PRAMOD SAWANT
Porvorim, Goa. Hon. Chief Minister/
25th July, 2023. /Finance Minister.

Assembly Hall, SMT. NAMRATA ULMAN
Porvorim, Goa. Secretary to the Legislative
25th July, 2023. Assembly of Goa.

Governor's Recommendation under Article
207 of the Constitution of India

In pursuance of article 207 of the Constitution of India, I, P. S. Sreedharan Pillai, the Governor of Goa, hereby recommend the introduction and consideration of the Goa Goods and Services Tax (Amendment) Bill, 2023 by the Legislative Assembly of Goa.

RAJ BHAVAN P. S. SREEDHARAN PILLAI
Date: 25th July, 2023. Governor of Goa.

ANNEXURE

**Extracts from The Goa Goods and Services
Tax Act, 2017 (Goa Act 4 of 2017)**

Section 10. Composition levy.— (1) Notwithstanding anything to the contrary contained in this Act but subject to the provisions of sub-sections (3) and (4) of section 9, a registered person, whose aggregate turnover in the preceding financial year did not exceed fifty lakh rupees, may opt to pay, in lieu of the tax payable by him under sub-section (1) of section 9, an amount of tax calculated at such rate as may be prescribed, but not exceeding,-

(a) one percent of the turnover in State or turnover in Union territory in case of a manufacturer,

(b) two and a half percent of the turnover in State or turnover in Union territory in case of persons engaged in making supplies referred to in clause (b) of paragraph 6 of Schedule II, and

(c) half percent of the turnover in State or turnover in Union territory in case of other suppliers, subject to such conditions and restrictions as may be prescribed:

Provided that the Government may, by notification, increase the said limit of fifty lakh rupees to such higher amount, not exceeding one crore and fifty lakh rupees, as may be recommended by the Council:

Provided further that a person who opts to pay tax under clause (a) or clause (b) or clause (c) may supply services (other than those referred to in clause (b) of paragraph 6 of Schedule II), of value not exceeding ten per cent. of turnover in a State or Union territory in the preceding financial year or five lakh rupees, whichever is higher.

Explanation.— For the purposes of second proviso, the value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount shall not be taken into account for determining the value of turnover in a State or Union territory.

(2) The registered person shall be eligible to opt under sub-section (1), if :—

(a) save as provided in sub-section (1), he is not engaged in the supply of services;

(b) he is not engaged in making any supply of goods or services which are not leviable to tax under this Act;

(c) he is not engaged in making any inter-State outward supplies of goods or services;

(d) he is not engaged in making any supply of goods or services through an electronic commerce operator who is required to collect tax at source under section 52;

(e) he is not a manufacturer of such goods as may be notified by the Government on the recommendations of the Council; and

(f) he is neither a casual taxable person nor a non-resident taxable person:

Provided that where more than one registered persons are having the same Permanent Account Number issued under the Income-tax Act, 1961 (43 of 1961), the registered person shall not be eligible to opt for the scheme under sub-section (1) unless all such registered persons opt to pay tax under that sub-section.

(2A) Notwithstanding anything to the contrary contained in this Act, but subject to the provisions of sub-sections (3) and (4) of section 9, a registered person, not eligible to opt to pay tax under sub-section (1) and sub-section (2), whose aggregate turnover in the preceding financial year did not exceed fifty lakh rupees, may opt to pay, in lieu of the tax payable by him under sub-section (1) of section 9, an amount of tax calculated at such rate as may be prescribed, but not exceeding three per cent. of the turnover in State or turnover in Union territory, if he is not-

(a) engaged in making any supply of goods or services which are not leviable to tax under this Act;

(b) engaged in making any inter-State outward supplies of goods or services;

(c) engaged in making any supply of goods or services through an electronic commerce operator who is required to collect tax at source under section 52;

(d) a manufacturer of such goods or supplier of such services as may be notified by the Government on the recommendations of the Council; and

(e) a casual taxable person or a non-resident taxable person:

Provided that where more than one registered person are having the same Permanent Account Number issued under the Income-tax Act, 1961 (43 of 1961), the registered person shall not be eligible to opt for the scheme under this sub-section unless all such registered persons opt to pay tax under this sub-section.

(3) The option availed of by a registered person under sub-section (1) or sub-section (2A), as the case may be, shall lapse with effect from the day on which his aggregate turnover during a financial year exceeds the limit specified under sub-section (1) or sub-section (2A), as the case may be.

(4) A taxable person to whom the provisions of sub-section (1) or, as the case may be, sub-section (2A) apply shall not collect any tax from the

recipient on supplies made by him nor shall he be entitled to any credit of input tax.

(5) If the proper officer has reasons to believe that a taxable person has paid tax under sub-section (1) or sub-section (2A), as the case may be, despite not being eligible, such person shall, in addition to any tax that may be payable by him under any other provisions of this Act, be liable to a penalty and the provisions of section 73 or section 74 shall, mutatis mutandis, apply for determination of tax and penalty.

Explanation 1.— For the purposes of computing aggregate turnover of a person for determining his eligibility to pay tax under this section, the expression “aggregate turnover” shall include the value of supplies made by such person from the 1st day of April of a financial year up to the date when he becomes liable for registration under this Act, but shall not include the value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.

Explanation 2.— For the purposes of determining the tax payable by a person under this section, the expression “turnover in State or turnover in Union territory” shall not include the value of following supplies, namely:—

(i) supplies from the first day of April of a financial year up to the date when such person becomes liable for registration under this Act; and

(ii) exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.

Section 16. Eligibility and conditions for taking input tax credit.—

(1) Every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person.

(2) Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless,-

(a) he is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or such other tax paying documents as may be prescribed;

(aa) the details of the invoice or debit note referred to in clause (a) has been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note in the manner specified under section 37;

(b) he has received the goods or services or both.

Explanation.— For the purposes of this clause, it shall be deemed that the registered person has received the goods or, as the case may be, services—

(i) where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;

(ii) where the services are provided by the supplier to any person on the direction of and on account of such registered person;

(ba) the details of input tax credit in respect of the said supply communicated to such registered person under section 38 has not been restricted;

(c) subject to the provisions of section 41, the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilisation of input tax credit admissible in respect of the said supply; and

(d) he has furnished the return under section 39;

Provided that where the goods against an invoice are received in lots or instalments, the registered person shall be entitled to take credit upon receipt of the last lot or instalment:

Provided further that where a recipient fails to pay to the supplier of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, the amount towards the value of supply along with tax payable thereon within a period of one hundred and eighty days from the date of issue of invoice

by the supplier, an amount equal to the input tax credit availed by the recipient shall be added to his output tax liability, along with interest thereon, in such manner as may be prescribed:

Provided also that the recipient shall be entitled to avail of the credit of input tax on payment made by him of the amount towards the value of supply of goods or services or both along with tax payable thereon.

(3) Where the registered person has claimed depreciation on the tax component of the cost of capital goods and plant and machinery under the provisions of the Income Tax Act, 1961 (43 of 1961), the input tax credit on the said tax component shall not be allowed.

(4) A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the thirtieth day of November following the end of financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier.

Provided that the registered person shall be entitled to take input tax credit after the due date of furnishing of the return under section 39 for the month of September, 2018 till the due date of furnishing of the return under the said section for the month of March, 2019 in respect of any invoice or invoice relating to such debit note for supply of goods or services or both made during the financial year 2017-18, the details of which have been uploaded by the supplier under sub-section (1) of section 37 till the due date for furnishing the details under sub-section (1) of said section for the month of March, 2019.

Section 17. *Apportionment of credit and blocked credits.*—

(1) Where the goods or services or both are used by the registered person partly for the purpose of any business and partly for other purposes, the amount of credit shall be restricted to so much of the input tax as is attributable to the purposes of his business.

(2) Where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies under this Act or under the Integrated Goods and Services Tax Act and partly for effecting exempt supplies under the said Acts, the amount of credit shall be restricted to so much of the input tax as is

attributable to the said taxable supplies including zero-rated supplies.

(3) The value of exempt supply under sub-section (2) shall be such as may be prescribed, and shall include supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.

Explanation.— For the purposes of this sub-section, the expression “value of exempt supply” shall not include the value of activities or transactions specified in Schedule III, except those specified in paragraph 5 of the said Schedule;

(4) A banking company or a financial institution including a non-banking financial company, engaged in supplying services by way of accepting deposits, extending loans or advances shall have the option to either comply with the provisions of subsection (2), or avail of, every month, an amount equal to fifty per cent. of the eligible input tax credit on inputs, capital goods and input services in that month and the rest shall lapse:

Provided that the option once exercised shall not be withdrawn during the remaining part of the financial year:

Provided further that the restriction of fifty per cent. shall not apply to the tax paid on supplies made by one registered person to another registered person having the same Permanent Account Number.

(5) Notwithstanding anything contained in sub-section (1) of section 16 and sub-section (1) of section 18, input tax credit shall not be available in respect of the following, namely:—

(a) motor vehicles for transportation of persons having approved seating capacity of not more than thirteen persons (including the driver), except when they are used for making the following taxable supplies, namely:—

(A) further supply of such motor vehicles;
or

(B) transportation of passengers; or

(C) imparting training on driving such motor vehicles;

(aa) vessels and aircraft except when they are used—

(i) for making the following taxable supplies, namely:—

(A) further supply of such vessels or aircraft;
or

(B) transportation of passengers; or

(C) imparting training on navigating such vessels; or

(D) imparting training on flying such aircraft;

(ii) for transportation of goods;

(ab) services of general insurance, servicing, repair and maintenance in so far as they relate to motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa):

Provided that the input tax credit in respect of such services shall be available—

(i) where the motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) are used for the purposes specified therein;

(ii) where received by a taxable person engaged-

(I) in the manufacture of such motor vehicles, vessels or aircraft; or

(II) in the supply of general insurance services in respect of such motor vehicles, vessels or aircraft insured by him;

(b) the following supply of goods or services or both-

(i) food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, leasing, renting or hiring of motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) except when used for the purposes specified therein, life insurance and health insurance:

Provided that the input tax credit in respect of such goods or services or both shall be available where an inward supply of such goods or services or both is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply;

(ii) membership of a club, health and fitness centre; and

(iii) travel benefits extended to employees on vacation such as leave or home travel concession:

Provided that the input tax credit in respect of such goods or services or both shall be available, where it is obligatory for an employer to provide the same to its employees under any law for the time being in force.

(c) works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service;

(d) goods or services or both received by a taxable person for construction of an immovable property (other than plant or machinery) on his own account including when such goods or services or both are used in the course or furtherance of business.

Explanation.— For the purposes of clauses (c) and (d), the expression “construction” includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalisation, to the said immovable property;

(e) goods or services or both on which tax has been paid under section 10;

(f) goods or services or both received by a non-resident taxable person except on goods imported by him;

(g) goods or services or both used for personal consumption;

(h) goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples; and

(i) any tax paid in accordance with the provisions of sections 74, 129 and 130.

(6) The Government may prescribe the manner in which the credit referred to in sub-sections (1) and (2) may be attributed.

Explanation.— For the purposes of this Chapter and Chapter VI, the expression “plant and machinery” means apparatus, equipment, and machinery fixed to earth by foundation or structural support that are used for making outward supply of goods or services or both and includes such foundation and structural supports but excludes—

(i) land, building or any other civil structures;

(ii) telecommunication towers; and

(iii) pipelines laid outside the factory premises.

Section 23. *Persons not liable for registration.*—

(1) The following persons shall not be liable to registration, namely:—

(a) any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax under this Act or under the Integrated Goods and Services Tax Act;

(b) an agriculturist, to the extent of supply of produce out of cultivation of land.

(2) The Government may, on the recommendations of the Council, by notification, specify the category of persons who may be exempted from obtaining registration under this Act.

Section 30. *Revocation of cancellation of registration.*—

******(1) Subject to such conditions as may be prescribed, any registered person, whose registration is cancelled by the proper officer on his own motion, may apply to such officer for revocation of cancellation of the registration in the prescribed manner within thirty days from the date of service of the cancellation order.

Provided that such period may, on sufficient cause being shown, and for reasons to be recorded in writing, be extended,—

(a) by the Additional Commissioner or the Joint Commissioner, as the case may be, for a period not exceeding thirty days;

(b) by the Commissioner, for a further period not exceeding thirty days, beyond the period specified in clause (a).

(2) The proper officer may, in such manner and within such period as may be prescribed, by order, either revoke cancellation of the registration or reject the application:

Provided that the application for revocation of cancellation of registration shall not be rejected unless the applicant has been given an opportunity of being heard.

(3) The revocation of cancellation of registration under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as the case may be, shall be deemed to be a revocation of cancellation of registration under this Act.

Section 37. *Furnishing details of outward supplies.*—

(1) Every registered person, other than an Input Service Distributor, a non-resident taxable person and a person paying tax under the provisions of section 10 or section 51 or section 52, shall furnish, electronically subject to such conditions and restrictions and in such form and manner as may be prescribed, the details of outward supplies of goods or services or both effected during a tax period on or before the tenth day of the month succeeding the said tax period and such details shall, subject to such conditions and restrictions, within such time and in such manner as may be prescribed, be communicated to the recipient of the said supplies:

Provided that the Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing such details for such class of taxable persons as may be specified therein:

Provided further that any extension of time limit notified by the Commissioner of State tax or Commissioner of Union territory tax shall be deemed to be notified by the Commissioner.

(3) Any registered person, who has furnished the details under sub-section (1) for any tax period shall, upon discovery of any error or omission therein, rectify such error or omission in such manner as may be prescribed, and shall pay the tax and interest, if any, in case there is a short payment of tax on account of such error or omission, in the return to be furnished for such tax period:

Provided that no rectification of error or omission in respect of the details furnished under sub-section (1) shall be allowed after the thirtieth day of November following the end of the financial year to which such details pertain, or furnishing of the relevant annual return, whichever is earlier.

Provided further that the rectification of error or omission in respect of the details furnished under sub-section (1) shall be allowed after furnishing of the return under section 39 for the month of September, 2018 till the due date for furnishing the details under sub-section (1) for the month of March, 2019 or for the quarter January, 2019 to March, 2019

(4) A registered person shall not be allowed to furnish the details of outward supplies under sub-section (1) for a tax period, if the details of outward supplies for any of the previous tax periods has not been furnished by him:

Provided that the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish the details of outward supplies under sub-section (1), even if he has not furnished the details of outward supplies for one or more previous tax periods

Explanation.— For the purposes of this Chapter, the expression “details of outward supplies” shall include details of invoices, debit notes, credit notes and revised invoices issued in relation to outward supplies made during any tax period.

Section 39. *Furnishing of returns.*—

(1) Every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52 shall, for every calendar month or part thereof, furnish, a return, electronically, of inward and outward supplies of goods or services or both, input tax credit availed, tax payable, tax paid and such other particulars, in such form and manner, and within such time, as may be prescribed:

Provided that the Government may, on the recommendations of the Council, notify certain class of registered persons who shall furnish a return for every quarter or part thereof, subject to such conditions and restrictions as may be specified therein.

(2) A registered person paying tax under the provisions of section 10, shall, for each financial year or part thereof, furnish a return, electronically, of turnover in the State or Union territory, inward supplies of goods or services or both, tax payable, tax paid and such other particulars in such form and manner, and within such time, as may be prescribed.

(3) Every registered person required to deduct tax at source under the provisions of section 51 shall furnish, in such form and manner as may be prescribed, a return, electronically, for the month in which such deductions have been made within ten days after the end of such month.

(4) Every taxable person registered as an Input Service Distributor shall, for every calendar month or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, within thirteen days after the end of such month.

(5) Every registered non-resident taxable person shall, for every calendar month or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, within thirteen days after the end of a calendar month or within seven days after the last day of the period of registration specified under sub-section (1) of section 27, whichever is earlier.

(6) The Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing the returns under this section for such class of registered persons as may be specified therein:

Provided that any extension of time limit notified by the Commissioner of State tax or Union territory tax shall be deemed to be notified by the Commissioner.

(7) Every registered person who is required to furnish a return under sub-section (1), other than the person referred to in the proviso thereto, or sub-section (3) or sub-section (5), shall pay to the Government the tax due as per such return not later than the last date on which he is required to furnish such return:

Provided that every registered person furnishing return under the proviso to sub-section (1) shall pay to the Government, in such form and manner, and within such time, as may be prescribed,—

(a) an amount equal to the tax due taking into account inward and outward supplies of goods or services or both, input tax credit availed, tax payable and such other particulars during a month; or

(b) in lieu of the amount referred to in clause (a), an amount determined in such manner and subject to such conditions and restrictions as may be prescribed

Provided further that every registered person furnishing return under sub-section (2) shall pay to the Government, the tax due taking into account turnover in the State or Union territory, inward supplies of goods or services or both, tax payable, and such other particulars during a quarter, in such form and manner, and within such time, as may be prescribed.

(8) Every registered person who is required to furnish a return under sub-section (1) or sub-section (2) shall furnish a return for every tax period whether or not any supplies of goods or services or both have been made during such tax period.

(9) Where any registered person after furnishing a return under sub-section (1) or sub-section (2) or sub-section (3) or sub-section (4) or sub-section (5) discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, he shall rectify such omission or incorrect particulars in the return to be furnished for the month or quarter during which such omission or incorrect particulars in such form and manner as may be prescribed, subject to payment of interest under this Act:

Provided that no such rectification of any omission or incorrect particulars shall be allowed after the thirtieth day of November following the end of the financial year to which such details pertain, or the actual date of furnishing of relevant annual return, whichever is earlier.

(10) A registered person shall not be allowed to furnish a return for a tax period if the return for any of the previous tax periods or the details of outward supplies under sub-section (1) of section 37 for the said tax period has not been furnished by him:

Provided that the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish the return, even if he has not furnished the returns for one or more previous tax periods or has not furnished the details of outward supplies under sub-section (1) of section 37 for the said tax period

Section 44. Annual return.—

Every registered person, other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person shall furnish an annual return which may include a self-certified reconciliation statement, reconciling the value of supplies declared in the return furnished for the financial year, with the audited annual financial statement for every financial year electronically, within such time and in such form and in such manner as may be prescribed:

Provided that the Commissioner may, on the recommendations of the Council, by notification, exempt any class of registered persons from filing annual return under this section:

Provided further that nothing contained in this section shall apply to any department of the Central

Government or a State Government or a local authority, whose books of account are subject to audit by the Comptroller and Auditor-General of India or an auditor appointed for auditing the accounts of local authorities under any law for the time being in force.

Section 52. *Collection of tax at source.*—

(1) Notwithstanding anything to the contrary contained in this Act, every electronic commerce operator (hereafter in this section referred to as the “operator”), not being an agent, shall collect an amount calculated at such rate not exceeding one per cent., as may be notified by the Government on the recommendations of the Council, of the net value of taxable supplies made through it by other suppliers where the consideration with respect to such supplies is to be collected by the operator.

Explanation.— For the purposes of this sub-section, the expression “net value of taxable supplies” shall mean the aggregate value of taxable supplies of goods or services or both, other than services notified under sub-section (5) of section 9, made during any month by all registered persons through the operator reduced by the aggregate value of taxable supplies returned to the suppliers during the said month.

(2) The power to collect the amount specified in sub-section (1) shall be without prejudice to any other mode of recovery from the operator.

(3) The amount collected under sub-section (1) shall be paid to the Government by the operator within ten days after the end of the month in which such collection is made, in such manner as may be prescribed.

(4) Every operator who collects the amount specified in sub-section (1) shall furnish a statement, electronically, containing the details of outward supplies of goods or services or both effected through it, including the supplies of goods or services or both returned through it, and the amount collected under sub-section (1) during a month, in such form and manner as may be prescribed, within ten days after the end of such month:

Provided that the Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing the statement for such class of registered persons as may be specified therein:

Provided further that any extension of time limit notified by the Commissioner of State tax or the Commissioner of Union territory tax shall be deemed to be notified by the Commissioner.

Explanation:— For the purposes of this sub-section, it is hereby declared that the due date for furnishing the said statement for the months of October, November and December, 2018 shall be the 07th February, 2019.

(5) Every operator who collects the amount specified in sub-section (1) shall furnish an annual statement, electronically, containing the details of outward supplies of goods or services or both effected through it, including the supplies of goods or services or both returned through it, and the amount collected under the said sub-section during the financial year, in such form and manner as may be prescribed, before the thirty first day of December following the end of such financial year

Provided that the Commissioner may, on the recommendations of the Council and for reasons to be recorded in writing, by notification, extend the time limit for furnishing the annual statement for such class of registered persons as may be specified therein:

Provided further that any extension of time limit notified by the Commissioner of State tax or the Commissioner of Union territory tax shall be deemed to be notified by the Commissioner.

(6) If any operator after furnishing a statement under sub-section (4) discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, he shall rectify such omission or incorrect particulars in the statement to be furnished for the month during which such omission or incorrect particulars are noticed, subject to payment of interest, as specified in sub-section (1) of section 50:

Provided that no such rectification of any omission or incorrect particulars shall be allowed after the thirtieth day of November following the end of the financial year or the actual date of furnishing of the relevant annual statement, whichever is earlier.

(7) The supplier who has supplied the goods or services or both through the operator shall claim credit, in his electronic cash ledger, of the amount collected and reflected in the statement of the operator furnished under sub-section (4), in such manner as may be prescribed.

(8) The details of supplies furnished by every operator under sub-section (4) shall be matched with the corresponding details of outward supplies furnished by the concerned supplier registered under this Act in such manner and within such time as may be prescribed.

(9) Where the details of outward supplies furnished by the operator under sub-section (4) do not match with the corresponding details furnished by the supplier under section 37 or section 39, the discrepancy shall be communicated to both persons in such manner and within such time as may be prescribed.

(10) The amount in respect of which any discrepancy is communicated under sub-section (9) and which is not rectified by the supplier in his valid return or the operator in his statement for the month in which discrepancy is communicated, shall be added to the output tax liability of the said supplier, where the value of outward supplies furnished by the operator is more than the value of outward supplies furnished by the supplier, in his return for the month succeeding the month in which the discrepancy is communicated in such manner as may be prescribed.

(11) The concerned supplier, in whose output tax liability any amount has been added under sub-section (10), shall pay the tax payable in respect of such supply along with interest, at the rate specified under sub-section (1) of section 50 on the amount so added from the date such tax was due till the date of its payment.

(12) Any authority not below the rank of Deputy Commissioner may serve a notice, either before or during the course of any proceedings under this Act, requiring the operator to furnish such details relating to—

(a) supplies of goods or services or both effected through such operator during any period; or

(b) stock of goods held by the suppliers making supplies through such operator in the godowns or warehouses, by whatever name called, managed by such operator and declared as additional places of business by such suppliers, as may be specified in the notice.

(13) Every operator on whom a notice has been served under sub-section (12) shall furnish the required information within fifteen working days of the date of service of such notice.

(14) Any person who fails to furnish the information required by the notice served under sub-section (12) shall, without prejudice to any action that may be taken under section 122, be liable to a penalty which may extend to twenty-five thousand rupees.

Explanation.— For the purposes of this section, the expression “concerned supplier” shall mean the supplier of goods or services or both making supplies through the operator.

Section 54. *Refund of tax.*—**

(1) Any person claiming refund of any tax and interest, if any, paid on such tax or any other amount paid by him, may make an application before the expiry of two years from the relevant date in such form and manner as may be prescribed:

Provided that a registered person, claiming refund of any balance in the electronic cash ledger in accordance with the provisions of sub-section (6) of section 49, may claim such refund in such form and manner as may be prescribed.

(2) A specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947 (46 of 1947), Consulate or Embassy of foreign countries or any other person or class of persons, as notified under section 55, entitled to a refund of tax paid by it on inward supplies of goods or services or both, may make an application for such refund, in such form and manner as may be prescribed, before the expiry of two years from the last day of the quarter in which such supply was received.

(3) Subject to the provisions of sub-section (10), a registered person may claim refund of any unutilised input tax credit at the end of any tax period:

Provided that no refund of unutilised input tax credit shall be allowed in cases other than—

(i) zero rated supplies made without payment of tax;

(ii) where the credit has accumulated on account of rate of tax on inputs being higher

than the rate of tax on output supplies (other than nil rated or fully exempt supplies), except supplies of goods or services or both as may be notified by the Government on the recommendations of the Council:

Provided further that no refund of unutilised input tax credit shall be allowed in cases where the goods exported out of India are subjected to export duty:

Provided also that no refund of input tax credit shall be allowed, if the supplier of goods or services or both avails of drawback in respect of central tax or claims refund of the integrated tax paid on such supplies.

(4) The application shall be accompanied by—

(a) such documentary evidence as may be prescribed to establish that a refund is due to the applicant; and

(b) such documentary or other evidence (including the documents referred to in section (33) as the applicant may furnish to establish that the amount of tax and interest, if any, paid on such tax or any other amount paid in relation to which such refund is claimed was collected from, or paid by, him and the incidence of such tax and interest had not been passed on to any other person:

Provided that where the amount claimed as refund is less than two lakh rupees, it shall not be necessary for the applicant to furnish any documentary and other evidences but he may file a declaration, based on the documentary or other evidences available with him, certifying that the incidence of such tax and interest had not been passed on to any other person.

(5) If, on receipt of any such application, the proper officer is satisfied that the whole or part of the amount claimed as refund is refundable, he may make an order accordingly and the amount so determined shall be credited to the Fund referred to in section 57.

(6) Notwithstanding anything contained in sub-section (5), the proper officer may, in the case of any claim for refund on account of zero-rated supply of goods or services or both made by registered persons, other than such category of registered persons as may be notified by the Government on the recommendations of the Council, refund on a provisional basis, ninety per cent. of the total amount so claimed, excluding the

amount of input tax credit provisionally accepted, in such manner and subject to such conditions, limitations and safeguards as may be prescribed and thereafter make an order under sub-section (5) for final settlement of the refund claim after due verification of documents furnished by the applicant.

(7) The proper officer shall issue the order under sub-section (5) within sixty days from the date of receipt of application complete in all respects.

(8) Notwithstanding anything contained in sub-section (5), the refundable amount shall, instead of being credited to the Fund, be paid to the applicant, if such amount is relatable to—

(a) refund of tax paid on export of goods or services or both or on inputs or input services used in making such exports;

(b) refund of unutilised input tax credit under sub-section (3);

(c) refund of tax paid on a supply which is not provided, either wholly or partially, and for which invoice has not been issued, or where a refund voucher has been issued;

(d) refund of tax in pursuance of section 77;

(e) the tax and interest, if any, or any other amount paid by the applicant, if he had not passed on the incidence of such tax and interest to any other person; or

(f) the tax or interest borne by such other class of applicants as the Government may, on the recommendations of the Council, by notification, specify.

(8A) The Government may disburse the refund of the State tax in such manner as may be prescribed.

(9) Notwithstanding anything to the contrary contained in any judgment, decree, order or direction of the Appellate Tribunal or any court or in any other provisions of this Act or the rules made thereunder or in any other law for the time being in force, no refund shall be made except in accordance with the provisions of sub-section (8).

(10) Where any refund is due to a registered person who has defaulted in furnishing any return or who is required to pay any tax, interest or penalty, which has not been stayed by any court, Tribunal or Appellate Authority by the specified date, the proper officer may—

(a) withhold payment of refund due until the said person has furnished the return or paid the tax, interest or penalty, as the case may be;

(b) deduct from the refund due, any tax, interest, penalty, fee or any other amount which the taxable person is liable to pay but which remains unpaid under this Act or under the existing law.

Explanation.— For the purposes of this sub-section, the expression “specified date” shall mean the last date for filing an appeal under this Act.

(11) Where an order giving rise to a refund is the subject matter of an appeal or further proceedings or where any other proceedings under this Act is pending and the Commissioner is of the opinion that grant of such refund is likely to adversely affect the revenue in the said appeal or other proceedings on account of malfeasance or fraud committed, he may, after giving the taxable person an opportunity of being heard, withhold the refund till such time as he may determine.

(12) Where a refund is withheld under sub-section (11), the taxable person shall, notwithstanding anything contained in section 56, be entitled to interest at such rate not exceeding six per cent. as may be notified on the recommendations of the Council, if as a result of the appeal or further proceedings he becomes entitled to refund.

(13) Notwithstanding anything to the contrary contained in this section, the amount of advance tax deposited by a casual taxable person or a non-resident taxable person under sub-section (2) of section 27, shall not be refunded unless such person has, in respect of the entire period for which the certificate of registration granted to him had remained in force, furnished all the returns required under section 39.

(14) Notwithstanding anything contained in this section, no refund under sub-section (5) or sub-section (6) shall be paid to an applicant, if the amount is less than one thousand rupees.

Explanation.— For the purposes of this section,—

(1) “refund” includes refund of tax paid on zero-rated supplies of goods or services or both or on inputs or input services used in making such zero-rated supplies, or refund of tax on the supply of goods regarded as deemed exports, or refund of

unutilised input tax credit as provided under sub-section (3).

(2) “relevant date” means—

(a) in the case of goods exported out of India where a refund of tax paid is available in respect of goods themselves or, as the case may be, the inputs or input services used in such goods,—

(i) if the goods are exported by sea or air, the date on which the ship or the aircraft in which such goods are loaded, leaves India; or

(ii) if the goods are exported by land, the date on which such goods pass the frontier; or

(iii) if the goods are exported by post, the date of despatch of goods by the Post Office concerned to a place outside India;

(b) in the case of supply of goods regarded as deemed exports where a refund of tax paid is available in respect of the goods, the date on which the return relating to such deemed exports is furnished;

(ba) in case of zero-rated supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit where a refund of tax paid is available in respect of such supplies themselves, or as the case may be, the inputs or input services used in such supplies, the due date for furnishing of return under section 39 in respect of such supplies;

(c) in the case of services exported out of India where a refund of tax paid is available in respect of services themselves or, as the case may be, the inputs or input services used in such services, the date of—

(i) receipt of payment in convertible foreign exchange or in Indian rupees wherever permitted by the Reserve Bank of India, where the supply of services had been completed prior to the receipt of such payment; or

(ii) issue of invoice, where payment for the services had been received in advance prior to the date of issue of the invoice;

(d) in case where the tax becomes refundable as a consequence of judgment, decree, order or direction of the Appellate Authority, Appellate Tribunal or any court, the date of communication of such judgment, decree, order or direction;

(e) in the case of refund of unutilised input tax credit under clause (ii) of the first proviso to

sub-section (3), the due date for furnishing of return under section 39 for the period in which such claim for refund arises;

(f) in the case where tax is paid provisionally under this Act or the rules made thereunder, the date of adjustment of tax after the final assessment thereof;

(g) in the case of a person, other than the supplier, the date of receipt of goods or services or both by such person; and

(h) in any other case, the date of payment of tax.

Section 56. *Interest on delayed refunds.*—

If any tax ordered to be refunded under sub-section (5) of section 54 to any applicant is not refunded within sixty days from the date of receipt of application under sub-section (1) of that section, interest at such rate not exceeding six per cent. as may be specified in the notification issued by the Government on the recommendations of the Council shall be payable in respect of such refund from the date immediately after the expiry of sixty days from the date of receipt of application under the said sub-section till the date of refund of such tax:

Provided that where any claim of refund arises from an order passed by an adjudicating authority or Appellate Authority or Appellate Tribunal or court which has attained finality and the same is not refunded within sixty days from the date of receipt of application filed consequent to such order, interest at such rate not exceeding nine per cent. as may be notified by the Government on the recommendations of the Council shall be payable in respect of such refund from the date immediately after the expiry of sixty days from the date of receipt of application till the date of refund.

Explanation.— For the purposes of this section, where any order of refund is made by an Appellate Authority, Appellate Tribunal or any court against an order of the proper officer under sub-section (5) of section 54, the order passed by the Appellate Authority, Appellate Tribunal or by the court shall be deemed to be an order passed under the said sub-section (5).

Section 62. *Assessment of non-filers of returns.*—

(1) Notwithstanding anything to the contrary contained in section 73 or section 74, where a

registered person fails to furnish the return under section 39 or section 45, even after the service of a notice under section 46, the proper officer may proceed to assess the tax liability of the said person to the best of his judgement taking into account all the relevant material which is available or which he has gathered and issue an assessment order within a period of five years from the date specified under section 44 for furnishing of the annual return for the financial year to which the tax not paid relates.

(2) Where the registered person furnishes a valid return within thirty days of the service of the assessment order under sub-section (1), the said assessment order shall be deemed to have been withdrawn but the liability for payment of interest under sub-section (1) of section 50 or for payment of late fee under section 47 shall continue.

109. *Appellate Tribunal and Benches thereof.*—

(1) Subject to the provisions of this Chapter, the Goods and Services Tax Appellate Tribunal constituted under the Central Goods and Services Tax Act shall be the Appellate Tribunal for hearing appeals against the orders passed by the Appellate Authority or the Revisional Authority under this Act.

(2) The constitution and jurisdiction of the State Bench and the Area Benches located in the State shall be in accordance with the provisions of section 109 of the Central Goods and Services Tax Act or the rules made thereunder.

110. *President and Members of Appellate Tribunal, their qualification, appointment, conditions of service, etc.*— The qualifications, appointment, salary and allowances, terms of office, resignation and removal of the President and Members of the State Bench and Area Benches shall be in accordance with the provisions of section 110 of the Central Goods and Services Tax Act.

Section 114. *Financial and administrative powers of President.*—

The President shall exercise such financial and administrative powers over the National Bench and Regional Benches of the Appellate Tribunal as may be prescribed:

Provided that the President shall have the authority to delegate such of his financial and

administrative powers as he may think fit to any other Member or any officer of the National Bench and Regional Benches, subject to the condition that such Member or officer shall, while exercising such delegated powers, continue to act under the direction, control and supervision of the President

Section 117. *Appeal to High Court.*—

(1) Any person aggrieved by any order passed by the State Bench or Area Benches of the Appellate Tribunal may file an appeal to the High Court and the High Court may admit such appeal, if it is satisfied that the case involves a substantial question of law.

(2) An appeal under sub-section (1) shall be filed within a period of one hundred and eighty days from the date on which the order appealed against is received by the aggrieved person and it shall be in such form, verified in such manner as may be prescribed:

Provided that the High Court may entertain an appeal after the expiry of the said period if it is satisfied that there was sufficient cause for not filing it within such period.

(3) Where the High Court is satisfied that a substantial question of law is involved in any case, it shall formulate that question and the appeal shall be heard only on the question so formulated, and the respondents shall, at the hearing of the appeal, be allowed to argue that the case does not involve such question:

Provided that nothing in this sub-section shall be deemed to take away or abridge the power of the court to hear, for reasons to be recorded, the appeal on any other substantial question of law not formulated by it, if it is satisfied that the case involves such question.

(4) The High Court shall decide the question of law so formulated and deliver such judgment thereon containing the grounds on which such decision is founded and may award such cost as it deems fit.

(5) The High Court may determine any issue which—

(a) has not been determined by the State Bench or Area Benches; or

(b) has been wrongly determined by the State Bench or Area Benches, by reason of a decision on such question of law as herein referred to in

sub-section (3).

(6) Where an appeal has been filed before the High Court, it shall be heard by a Bench of not less than two Judges of the High Court, and shall be decided in accordance with the opinion of such Judges or of the majority, if any, of such Judges.

(7) Where there is no such majority, the Judges shall state the point of law upon which they differ and the case shall, then, be heard upon that point only, by one or more of the other Judges of the High Court and such point shall be decided according to the opinion of the majority of the Judges who have heard the case including those who first heard it.

(8) Where the High Court delivers a judgment in an appeal filed before it under this section, effect shall be given to such judgment by either side on the basis of a certified copy of the judgment.

(9) Save as otherwise provided in this Act, the provisions of the Code of Civil Procedure, 1908 (5 of 1908) relating to appeals to the High Court shall, as far as may be, apply in the case of appeals under this section.

Section 118. *Appeal to Supreme Court.*—

(1) An appeal shall lie to the Supreme Court—

(a) from any order passed by the National Bench or Regional Benches of the Appellate Tribunal; or

(b) from any judgment or order passed by the High Court in an appeal made under section 117 in any case which, on its own motion or on an application made by or on behalf of the party aggrieved, immediately after passing of the judgment or order, the High Court certifies to be a fit one for appeal to the Supreme Court.

(2) The provisions of the Code of Civil Procedure, 1908, relating to appeals to the Supreme Court shall, so far as may be, apply in the case of appeals under this section as they apply in the case of appeals from decrees of a High Court.

(3) Where the judgment of the High Court is varied or reversed in the appeal, effect shall be given to the order of the Supreme Court in the manner provided in section 117 in the case of a judgment of the High Court.

Section 119. *Sums due to be paid notwithstanding appeal, etc.—*

Notwithstanding that an appeal has been preferred to the High Court or the Supreme Court, sums due to the Government as a result of an order passed by the National or Regional Benches of the Appellate Tribunal under sub-section (1) of section 113 or an order passed by the State Bench or Area Benches of the Appellate Tribunal under sub-section (1) of section 113 or an order passed by the High Court under section 117, as the case may be, shall be payable in accordance with the order so passed.

Section 122. *Penalty for certain offences.—*

(1) Where a taxable person who —

(i) supplies any goods or services or both without issue of any invoice or issues an incorrect or false invoice with regard to any such supply;

(ii) issues any invoice or Bill without supply of goods or services or both in violation of the provisions of this Act or the rules made thereunder;

(iii) collects any amount as tax but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due;

(iv) collects any tax in contravention of the provisions of this Act but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due;

(v) fails to deduct the tax in accordance with the provisions of sub-section (1) of section 51, or deducts an amount which is less than the amount required to be deducted under the said sub-section, or where he fails to pay to the Government under sub-section (2) thereof, the amount deducted as tax;

(vi) fails to collect tax in accordance with the provisions of sub-section (1) of section 52, or collects an amount which is less than the amount required to be collected under the said sub-section or where he fails to pay to the Government the amount collected as tax under sub-section (3) of section 52;

(vii) takes or utilises input tax credit without actual receipt of goods or services or both either

fully or partially, in contravention of the provisions of this Act or the rules made thereunder;

(viii) fraudulently obtains refund of tax under this Act;

(ix) takes or distributes input tax credit in contravention of section 20, or the rules made thereunder;

(x) falsifies or substitutes financial records or produces fake accounts or documents or furnishes any false information or return with an intention to evade payment of tax due under this Act;

(xi) is liable to be registered under this Act but fails to obtain registration;

(xii) furnishes any false information with regard to registration particulars, either at the time of applying for registration, or subsequently;

(xiii) obstructs or prevents any officer in discharge of his duties under this Act;

(xiv) transports any taxable goods without the cover of documents as may be specified in this behalf;

(xv) suppresses his turnover leading to evasion of tax under this Act;

(xvi) fails to keep, maintain or retain books of account and other documents in accordance with the provisions of this Act or the rules made thereunder;

(xvii) fails to furnish information or documents called for by an officer in accordance with the provisions of this Act or the rules made thereunder or furnishes false information or documents during any proceedings under this Act;

(xviii) supplies, transports or stores any goods which he has reasons to believe are liable to confiscation under this Act;

(xix) issues any invoice or document by using the registration number of another registered person;

(xx) tampers with, or destroys any material evidence or document;

(xxi) disposes off or tampers with any goods that have been detained, seized, or attached under this Act,

he shall be liable to pay a penalty of ten thousand rupees or an amount equivalent to the tax evaded or the tax not deducted under section 51 or short deducted or deducted but not paid to the Government or tax not collected under section 52 or short collected or collected but not paid to the Government or input tax credit availed of or passed on or distributed irregularly, or the refund claimed fraudulently, whichever is higher.

(1A) Any person who retains the benefit of a transaction covered under clauses (i), (ii), (vii) or clause (ix) of sub-section (1) and at whose instance such transaction is conducted, shall be liable to a penalty of an amount equivalent to the tax evaded or input tax credit availed of or passed on.

(2) Any registered person who supplies any goods or services or both on which any tax has not been paid or short-paid or erroneously refunded, or where the input tax credit has been wrongly availed or utilised,-

(a) for any reason, other than the reason of fraud or any wilful misstatement or suppression of facts to evade tax, shall be liable to a penalty of ten thousand rupees or ten per cent. of the tax due from such person, whichever is higher;

(b) for reason of fraud or any wilful misstatement or suppression of facts to evade tax, shall be liable to a penalty equal to ten thousand rupees or the tax due from such person, whichever is higher.

(3) Any person who—

(a) aids or abets any of the offences specified in clauses (i) to (xxi) of sub-section (1);

(b) acquires possession of, or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner deals with any goods which he knows or has reasons to believe are liable to confiscation under this Act or the rules made thereunder;

(c) receives or is in any way concerned with the supply of, or in any other manner deals with any supply of services which he knows or has reasons to believe are in contravention of any provisions of this Act or the rules made thereunder;

(d) fails to appear before the officer of central tax, when issued with a summon for appearance to give evidence or produce a document in an inquiry;

(e) fails to issue invoice in accordance with the provisions of this Act or the rules made thereunder or fails to account for an invoice in his books of account, shall be liable to a penalty which may extend to twenty-five thousand rupees.

Section 132. *Punishment for certain offences.*—

(1) Whoever commits, or causes to commit and retain the benefits arising out of, any of the following offences, namely:—

(a) supplies any goods or services or both without issue of any invoice, in violation of the provisions of this Act or the rules made thereunder, with the intention to evade tax;

(b) issues any invoice or Bill without supply of goods or services or both in violation of the provisions of this Act, or the rules made thereunder leading to wrongful availment or utilisation of input tax credit or refund of tax;

(c) avails input tax credit using the invoice or Bill referred to in clause (b) or fraudulently avails input tax credit without any invoice or bill;

(d) collects any amount as tax but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due;

(e) evades tax or fraudulently obtains refund and where such offence is not covered under clauses (a) to (d);

(f) falsifies or substitutes financial records or produces fake accounts or documents or furnishes any false information with an intention to evade payment of tax due under this Act;

(g) obstructs or prevents any officer in the discharge of his duties under this Act;

(h) acquires possession of, or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner deals with, any goods which he knows or has reasons to believe are liable to confiscation under this Act or the rules made thereunder;

(i) receives or is in any way concerned with the supply of, or in any other manner deals with any supply of services which he knows or has reasons to believe are in contravention of any

provisions of this Act or the rules made thereunder;

(j) tampers with or destroys any material evidence or documents;

(k) fails to supply any information which he is required to supply under this Act or the rules made thereunder or (unless with a reasonable belief, the burden of proving which shall be upon him, that the information supplied by him is true) supplies false information; or

(l) attempts to commit, or abets the commission of any of the offences mentioned in clauses (a) to (k) of this section,

shall be punishable-

(i) in cases where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds five hundred lakh rupees, with imprisonment for a term which may extend to five years and with fine;

(ii) in cases where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds two hundred lakh rupees but does not exceed five hundred lakh rupees, with imprisonment for a term which may extend to three years and with fine;

(iii) in the case of any other offence where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds one hundred lakh rupees but does not exceed two hundred lakh rupees, with imprisonment for a term which may extend to one year and with fine;

(iv) in cases where he commits or abets the commission of an offence specified in clause (f) or clause (g) or clause (j), he shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.

(2) Where any person convicted of an offence under this section is again convicted of an offence under this section, then, he shall be punishable for the second and for every subsequent offence with imprisonment for a term which may extend to five years and with fine.

(3) The imprisonment referred to in clauses (i), (ii) and (iii) of sub-section (1) and sub-section (2) shall, in the absence of special and adequate reasons to the contrary to be recorded in the

judgment of the Court, be for a term not less than six months.

(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act, except the offences referred to in sub-section (5) shall be non-cognizable and bailable.

(5) The offences specified in clause (a) or clause (b) or clause (c) or clause (d) of sub-section (1) and punishable under clause (i) of that sub-section shall be cognizable and non-bailable.

(6) A person shall not be prosecuted for any offence under this section except with the previous sanction of the Commissioner.

Explanation.— For the purposes of this section, the term “tax” shall include the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or refund wrongly taken under the provisions of this Act, the State Goods and Services Tax Act, the Integrated Goods and Services Tax Act or the Union Territory Goods and Services Tax Act and cess levied under the Goods and Services Tax (Compensation to States) Act.

Section 138. *Compounding of offences.*—

(1) Any offence under this Act may, either before or after the institution of prosecution, be compounded by the Commissioner on payment, by the person accused of the offence, to the Central Government or the State Government, as the case be, of such compounding amount in such manner as may be prescribed:

Provided that nothing contained in this section shall apply to—

(a) a person who has been allowed to compound once in respect of any of the offences specified in clauses (a) to (f) of sub-section (1) of section 132 and the offences specified in clause (l) which are relatable to offences specified in clauses (a) to (f) of the said sub-section;

(b) a person who has been allowed to compound once in respect of any offence, other than those in clause (a), under this Act or under the provisions of any State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act or the Integrated Goods and Services Tax Act in respect of supplies of value exceeding one crore rupees;

(c) a person who has been accused of committing an offence under this Act which is

also an offence under any other law for the time being in force;

(d) a person who has been convicted for an offence under this Act by a court;

(e) a person who has been accused of committing an offence specified in clause (g) or clause (j) or clause (k) of sub-section (1) of section 132; and

(f) any other class of persons or offences as may be prescribed:

Provided further that any compounding allowed under the provisions of this section shall not affect the proceedings, if any, instituted under any other law:

Provided also that compounding shall be allowed only after making payment of tax, interest and penalty involved in such offences.

(2) The amount for compounding of offences under this section shall be such as may be prescribed, subject to the minimum amount not being less than ten thousand rupees or fifty per cent. of the tax involved, whichever is higher, and the maximum amount not being less than thirty thousand rupees or one hundred and fifty per cent. of the tax, whichever is higher.

(3) On payment of such compounding amount as may be determined by the Commissioner, no further proceedings shall be initiated under this Act against the accused person in respect of the same offence and any criminal proceedings, if already initiated in respect of the said offence, shall stand abated.

SCHEDULE III.

See section 7

Activities or Transactions which shall be treated neither as a supply of goods nor a supply of Services

1. Services by an employee to the employer in the course of or in relation to his employment.

2. Services by any court or Tribunal established under any law for the time being in force.

3. (a) the functions performed by the Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities;

(b) the duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity; or

(c) the duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or a State Government or local authority and who is not deemed as an employee before the commencement of this clause.

4. Services of funeral, burial, crematorium or mortuary including transportation of the deceased.

5. Sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.

6. Actionable claims, other than lottery, betting and gambling.

7. Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India.

8. (a) Supply of warehoused goods to any person before clearance for home consumption;

(b) Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption.

Explanation 1.— For the purposes of paragraph 2, the term “court” includes District Court, High Court and Supreme Court.

Explanation 2.— For the purposes of paragraph 8, the expression “warehoused goods” shall have the same meaning as assigned to it in the Customs Act, 1962 (50 of 1962).

Notification

LA/LEGN/2023/1448

The following bill which was introduced in the Legislative Assembly of the State of Goa on 31st July, 2023 is hereby published for general information in pursuance of Rule-138 of the Rules of Procedure and Conduct of Business of the Goa Legislative Assembly.

The Goa Value Added Tax (Second
Amendment) Bill, 2023

(Bill No. 30 of 2023)

A

BILL

*further to amend the Goa Value Added Tax
Act, 2005 (Goa Act 9 of 2005).*

Be it enacted by the Legislative Assembly
of Goa in the Seventy-fourth Year of the
Republic of India as follows:—

1. *Short title and commencement.*— (1) This
Act may be called the Goa Value Added Tax
(Amendment) Act, 2023.

(2) It shall come into force at once.

2. *Amendment of section 3.*— In section 3
of the Goa Value Added Tax Act, 2005 (Goa
Act 9 of 2005), (hereinafter referred to as the
“principal Act”),—

(i) for sub-section (1), the following sub-
section shall be substituted namely:—

“(1) Every dealer who is engaged in
business of sale of goods shall be liable
to pay tax under this Act on his turnover
of sales, until such liability ceases under
sub-section (3):

Provided that a dealer who was
engaged in business of sale of goods
before commencement of the Goa Value
Added Tax (Second Amendment) Act,
2023 but was not liable to pay tax under
section 3 and who has not obtained
certificate of registration under sub-
section (3) of section 18, before such
commencement, shall be liable to pay
tax from the date of commencement of
the Goa Value Added Tax (Second
Amendment) Act, 2023 and he shall
obtain a certificate of registration under
section 18 within a period of 90 days
from the date of commencement of the
Goa Value Added Tax (Second
Amendment) Act, 2023.”;

(ii) for sub-section (2), the following sub-
section shall be substituted, namely:—

“(2) Every dealer who engages in a
business of sale of goods after

commencement of the Goa Value Added
Tax (Second Amendment) Act, 2023 shall
be liable to pay tax under this Act with
effect from the date of his engagement
in such business till his liability ceases
under sub-section (3);

(iii) proviso to sub-section (3) shall be
omitted;

(iv) sub-sections (4) and (5) shall be
omitted.

3. *Amendment of section 18.*— In section
18 of the principal Act,—

(i) in sub-section (3),—

(a) for the expression “but is not liable
to pay tax under the provisions of this
Act may, if he so desires,”, the word
“shall” shall be substituted;

(b) proviso shall be omitted;

(ii) for sub-section (8), the following sub-
section shall be substituted, namely:—

“(8) Where, any business, in respect
of which a certificate of registration has
been issued under this section, has been
discontinued, or has been transferred or
otherwise disposed of the dealer shall
apply in the prescribed manner and
within the prescribed time for
cancellation of his registration to the
Commissioner and thereupon the
Commissioner may, after such inquiry as
he deems fit and subject to the rules
framed, cancel the registration with
effect from such date including any date
earlier to the date of the order of
cancellation as he considers fit having
regard to the circumstances of the
case.”.

4. *Insertion of new section 31B.*— After
section 31A of the principal Act, the following
new section shall be inserted, namely:—

“31B. *Fresh Assessment on request of
Taxpayer.*— (1) Notwithstanding anything
contrary contained in the provisions of this
Act, a dealer who is assessed or re-
assessed by disallowing input tax credit

for reason of non-renewal of registration for any period starting from the 1st day of April, 2017 till the date of commencement of the Goa Value Added Tax (Second Amendment) Act, 2023, may apply to the Commissioner for getting him assessed afresh in pursuance of deemed renewal of his registration under sub-section (10A) of section 18 inserted by the Goa Value Added Tax (Amendment) Act, 2023 (Goa Act 9 of 2023).

(2) The application for the purposes of sub-section (1) shall be made on a plain paper, setting out therein all the relevant facts and shall be accompanied by proof of payment of non-refundable processing fees of Rs. 10,000/-. Separate applications shall be made for each assessment year/assessment period.

(3) The Commissioner after affording an opportunity of being heard to the applicant, shall pass an order either allowing the fresh assessment or rejecting the application for reasons to be recorded in writing.

(4) In case where the Commissioner by an Order passed under this section allows the fresh assessment, notwithstanding anything to the contrary contained in this Act or in any other law for time being in force, the bar of limitation shall not be applicable for re-opening of any assessment of such dealer in respect of any period from the date of registration of the dealer till the date of passing of Order by the Commissioner.”.

Statement of Objects and Reasons

Clause 2 of the Bill seeks to amend section 3 of the Goa Value Added Tax Act, 2005 (Goa Act 9 of 2005) (hereinafter referred to as the “said Act”) so as to make registration compulsory for dealers engaged in selling of five petroleum products and alcohol for human consumption within a period of 90 days of commencement of the Goa Value Added Tax (Second Amendment) Act, 2023. This clause also seeks to omit the threshold limit specified in sub-section (4) and (5) of

section 3 of the said Act to make the registration compulsory.

Clause 3 of the Bill seeks to amend section 18 of the said Act so as to make registration compulsory for dealers engaged in selling of five petroleum products and alcohol for human consumption.

Clause 4 of the Bill seeks to insert new section 31B so as to allow fresh assessment of a dealers who has been disallowed input tax credit for reason of non-renewal of registration for any period starting from 01st April, 2017 till the date of commencement of the Goa Value Added Tax (Second Amendment) Act, 2023 by making an application on plain paper and after payment of fees.

This Bill seeks to achieve the above objects.

Financial Memorandum

The proposed Goa Value Added Tax (Second Amendment) Bill, 2023 does not involve any recurring or non-recurring expenditure from the Consolidated Fund of the State.

Memorandum Regarding Delegated Legislation

Clause 3 of the Bill empowers the Government to frame rules for specifying the time and manner for cancellation of registration of a dealer where the business has been discontinued, transferred or disposed of.

These delegations are of normal character.

Assembly Hall,
Porvorim, Goa.
25th July, 2023.

Dr. PRAMOD SAWANT
Hon. Chief Minister/
Finance Minister.

Assembly Hall,
Porvorim, Goa.
25th July, 2023.

NAMRATA ULMAN
Secretary to the
Legislative Assembly
of Goa.

**Governor's Recommendation under Article
207 of the Constitution of India**

In pursuance of Article 207 of the Constitution of India, I, P. S. Sreedharan Pillai, the Governor of Goa hereby recommend, the introduction and consideration of the Goa Value Added Tax (Second Amendment) Bill, 2023 by the legislative assembly of Goa.

RAJ BHAVAN, P. S. SREEDHARAN PILLAI
Date: 25-07-2023. His Excellency,
Governor of Goa.

ANNEXURE

**Extracts from The Goa Value Added
Tax Act, 2005
(Goa Act 9 of 2005)**

Section: 3. Incidence of Tax.-

(1) Every dealer, whose turnover of all sales made during—

(i) the year ending on the 31st day of March of the year preceding the year in which this Act is enforced; or

(ii) the year commencing on the 1st day of April of the year during which this Act is enforced;

has exceeded or exceeds the relevant limit specified in sub-section (4), of this section shall until such liability ceases under sub-section (3), be liable to pay tax under this Act on his turnover of sales, made, on or after the appointed day:

Provided that, a dealer to whom clause (i) of sub-section (1) does not apply but clause (ii) applies and whose turnover of all sales first exceeds the relevant limit specified in sub-section (4) of this section after the appointed day shall not be liable to pay tax in respect of sales which take place upto the time when his turnover of sales, as computed from the first day of the year during which this Act is enforced, does not exceed the relevant limit applicable to him under sub-section (4).

(2) Every dealer whose turnover, of all sales made, during any year commencing on the first day of the year, being a year subsequent to the years

mentioned in sub-section (1), first exceeds the relevant limit specified in sub-section (4), shall, until such liability ceases under sub-section (3), be liable to pay tax under this Act with effect from the said date:

Provided that, a dealer shall not be liable to pay tax in respect of such sales as take place during the period commencing on the first day of the said year upto the time when his turnover of sales does not exceed the relevant limit applicable to him under sub-section (4).

(3) Every dealer who has become liable to pay tax under this Act, shall continue to be so liable until his registration is duly cancelled; and upon such cancellation his liability to pay tax, shall cease other than tax, already levied or leviable.

Provided that, if the dealer becomes liable to pay tax again in the same year in which he ceased to be liable as aforesaid, then in respect of such sales as take place during the period commencing on the date of the cessation of liability to tax and upto the time when his turnover of sales does not exceed the relevant limit applicable to him under sub-section (4), no tax shall be payable by him.

(4) For the purposes of this section, the limits of turnover shall be as follows-

(i) Limit of turnover of Rs. 10000/-	In case of Non-resident dealer and casual trader
(ii) Limit of turnover of Rs. 5,00,000/-	In case of importer/manufacturer.
(iii) Limit of turnover of Rs. 10,00,000/-	In any other case.

(5) For the purpose of calculating the limit of turnover for liability to tax,-

(a) except as otherwise expressly provided, the turnover of all sales shall be taken, whether such sales are taxable or not or of taxable goods or not;

(b) the turnover shall include all sales made by the dealer on his own account, and also on behalf of his principals whether disclosed or not;

(c) in the case of an auctioneer, in addition to the turnover, if any, referred to in clauses (a) and (b), the turnover shall also include the price of the goods auctioned by him for his principal, whether the offer of the intending purchaser is accepted by him or by the principal or a nominee

of the principal, if the price of such goods is received by him on behalf of his principal;

(d) in the case of a manager or agent of a non-resident dealer, in addition to the turnover, if any, referred to in clauses (a), (b) or (c), the turnover shall also include the sales of the non-resident dealer effected in the State.

(6) Notwithstanding anything contained in any contract or any law for the time being in force, but subject to the provisions of this Act, any person covered by sub-clauses (a), (b) and (c) of clause (k) of section 2 shall be liable to pay tax under this Act, whether or not the principal is a dealer and whether or not such principal is liable to pay tax under this section and whether or not the principals are disclosed.

(7) Liability of dealers registered under the Central Sales Tax Act, 1956 (Central Act 74 of 1956).—

Every dealer shall, notwithstanding that he is not liable to pay tax under any of sub-sections (1) to (3) of section 3, be liable to pay tax under this Act so long as he is registered under the Central Sales Tax Act, 1956 (Central Act 74 of 1956), on all sales effected by him or on his behalf within Goa, on or after the date of his liability or the date of his registration, whichever is earlier, under the Central Sales Tax Act, 1956 (Central Act 74 of 1956):

Provided that no tax shall be payable in respect of sales in any period prior to commencement of liability under this Act.

(8) Liability of exporters and dealers effecting stock transfers outside the State:—

Every dealer exporting any goods outside India or effecting stock transfers to any States and Union Territories within India, shall, notwithstanding that he is not liable to pay tax under any of sub-sections (1) to (3) of section 3, be liable to pay tax under this Act on all taxable sales effected within the State.

(9) Special liability of person organizing or conducting exhibition or event or programme.—

Any person organizing or conducting exhibition or event or programme either for sale of goods or for promoting goods for sale, by providing stalls or space to other persons or dealers under the banner of specific name or otherwise or under a common roof or otherwise

shall be liable to pay tax on all taxable sales effected by all such persons or dealers participating in such exhibition or event or programme other than the dealers who are already registered under this Act and self help groups participating in such exhibition or event or programme:

Provided that no person shall be allowed to carry on such exhibition or event or programme without obtaining prior written permission of the Commissioner as per the procedure prescribed and payment in advance of estimated tax. The advance estimated tax shall be adjusted towards the output tax liability payable by the person organizing or conducting exhibition or event or programme so conducted:

Provided further that the owner of the property where the exhibition or event or programme is to be held, shall be jointly and severally liable to pay tax that may become due on sale of goods made in such exhibition or event or programme if he fails to inform the Commissioner about renting/leasing/letting out of his property, whether residential or commercial, or any open space, alongwith the details of dealer or person conducting the exhibition or event or programme as well as the conditions subject to which the said property is rented/leased/let out and any other relevant information.

Explanation:—

(1) Self Help Groups means Self Help Groups registered with the Rural Development Agency or with the Registrar of Co-operative Society or any other Government Department as Self Help Groups within the State of Goa and are selling goods manufactured by themselves.

(2) For the purpose of calculation of tax to be paid in advance, the stalls occupied by dealers holding valid registration under this Act, and the self help groups shall not be included while making such calculation, provided prior permission of the Commissioner is obtained by them for their participation in such exhibitions, event, or programme in a prescribed manner"

Section: 18. *Registration.*—

(1) No dealer shall, while being liable to pay tax under section 3 or under sub-section (6) of section 19, be engaged in business as a dealer, unless he possesses a valid certificate of registration as provided by this Act:

Provided that, the provisions of this sub-section shall not be deemed to have been contravened, if the dealer having applied for such registration as in this section provided, within the prescribed time or, as the case may be, within the period specified in sub-section (6) of section 19, while he is engaged in such business.

(2) Every dealer, required by sub-section (1) to possess a certificate of registration, shall apply in the prescribed manner, to the Commissioner.

(3) A person or a dealer who intends to be engaged in business of dealing in goods, but is not liable to pay tax under the provisions of this Act may, if he so desires, apply in the prescribed manner under this sub-section for the grant of certificate of registration to the Commissioner and if the certificate is granted, then so long as it is not duly cancelled, the person or dealer shall remain liable to pay tax.

Provided that if the person or dealer to whom such certificate of registration is granted becomes liable to pay tax under any other provisions of the Act, then the certificate of registration so granted shall cease to be valid unless amended after payment of prescribed fee.

(4) Certificate of registration shall not be granted to a dealer unless,—

(a) he has declared his Permanent Account Number, mobile number, e-mail address in the application for registration and validated the same in the manner as may be prescribed; and

(b) he has deposited in the Government treasury prescribed fee in the prescribed manner and within the prescribed time.

(5) The Commissioner may conduct such inquiry as he deems fit and may call for such evidence and information as he may deem necessary and after the inquiry, if any, and after considering the evidence and information, if any, he is satisfied that the application for registration made under this section is in order, he shall register the applicant and issue to him a certificate of registration in the prescribed form:

Provided that if the Commissioner is satisfied that the particulars contained in the application are not correct or complete or that any evidence or information prescribed for registering the applicant is not furnished, the Commissioner may, after giving the applicant a reasonable opportunity of being heard, reject the application for reasons to be recorded in writing.

(6) The Commissioner may, after considering any information furnished under any provisions of this Act or otherwise received, amend from time to time, any certificate of registration.

(7) If a person or a dealer upon an application made by him has been registered under this section and thereafter it is found that he ought not to have been so registered under the provisions of this section, he shall be liable to pay tax during the period from the date on which his registration certificate took effect until it is cancelled, notwithstanding that he may not be liable to pay tax under this Act.

(8) Where,—

(a) any business, in respect of which a certificate of registration has been issued under this section, has been discontinued, or has been transferred or otherwise disposed of; or

(b) the turnover of sales of a registered dealer has during any year not exceeded the relevant limit specified in sub-section (4) of section 3,—

then, in the case covered by clause (a), the dealer shall apply in the prescribed manner and within the prescribed time for cancellation of his registration to the Commissioner, and in the case covered by clause (b), the dealer may apply in the prescribed manner for cancellation of his registration to the Commissioner; and thereupon the Commissioner may, after such inquiry as he deems fit and subject to rules framed, cancel the registration with effect from such date including any date earlier to the date of the order of cancellation as he considers fit having regard to the circumstances of the case.

(9) Any person intending to organize or conduct exhibition or any event or programme either for sale of goods or for promoting goods for sale, by providing stalls or space to other persons or dealers under the banner of specific name or otherwise or under a common roof or otherwise, shall obtain a registration under this Act and shall apply in the prescribed manner, to the Commissioner requesting permission, indicating therein the details of the persons and/or dealers participating in, and the period of such exhibition alongwith payment of estimated tax in advance. The Commissioner may issue such permission in such form and subject to such conditions as may be prescribed. The dealer to whom the permission is issued shall exhibit the same at a conspicuous place where the exhibition or event or programme is conducted. The provisions of sub-sections (4), (5), (6), (7), (8), (10), (11), (12), (13),

(14) and (15) of this section shall, *mutatis mutandis*, apply to this sub-section.

(10) Any registration granted under the provisions of this Act shall remain valid until it is cancelled:

Provided that, before passing the order of cancellation, the dealer shall be given a reasonable opportunity of being heard.

(10A) Notwithstanding anything contained in any Order, judgement or decision of any Authority, Administrative Tribunal or Court, any dealer who has failed to renew the registration after the expiry of validity of registration from 01st day of April, 2017, shall be deemed to have valid registration for all the purposes under this Act."

Provided that no refund or adjustment of any sum of amount already paid towards renewal fee, tax, penalty or late fee due to non-renewal of registration shall be made due to amendment to section 18 and its effect thereof.

(11) If a dealer,—

(a) fails to file three consecutive returns under this Act;

(b) fails to pay the dues demanded in assessment/reassessment or otherwise within the period specified except where such demand has been stayed by the appellate authority or tribunal or any other court;

(c) fails to pay the tax due from him for three consecutive tax periods under the provisions of this Act;

(d) having issued tax invoice or retail invoices, fails to account for the said invoices in his books of account;

(e) holds or accepts or furnishes or causes to be furnished a declaration, which he knows or has reason to believe to be false;

(f) has been convicted of an offence under this Act, or under the earlier law;

(g) discontinues his business without complying with the provisions contained in sub-section (8) of section 18 of the Act;

(h) without entering into a transaction of sale, issues to another dealer tax invoice, retail invoice, bill or cash memorandum, with intention to defraud the Government of revenue;

(i) is found evading tax on account of variation in physical stock compared with his regular books of accounts;

then the Commissioner may, at any time after giving the dealer an opportunity of being heard and for the reasons to be recorded in writing, by order cancel his certificate of registration from such date as may be specified by him in such order and the dealer shall not be entitled to any benefits available to a registered dealer under this Act from date specified in this order.

(12) (a) If a dealer,—

(i) fails to inform changes in business as required by sub-section (1) of section 22;

(ii) fails to file declaration and/or furnish the documents as required by section 23;

(iii) fails to furnish return as required by section 24;

(iv) fails to pay tax as required by section 25;

(v) fails to produce the books of accounts as required by the Commissioner under sub-section (1) of section 73;

then the Commissioner may, at any time, after giving the dealer an opportunity of being heard and for the reasons to be recorded in writing, by order suspend his certificate of registration from date not earlier than the date of such order, as may be specified by him in such order.

(b) Where a dealer, whose certificate of registration is suspended for the failure of any of the requirements specified in clause (a), fulfils the requirements, the Commissioner shall, by an order in writing, withdraw the suspension order from such date as may be specified therein.

(c) The dealer whose certificate of registration is suspended under clause (a) shall not be entitled to claim input tax credit during the period of suspension of registration.

(13) Every person whose registration is cancelled under sub-section (11) shall pay in respect of every taxable goods held as stock on the date of cancellation an amount equal to the tax that would be payable in respect of the goods if the goods were sold at fair market price on that date or the total tax credit previously claimed in respect of such goods, whichever is higher.

(14) If an order of suspension or cancellation passed under this section is set aside in an appeal or other proceedings under this Act, the certificate of registration of the dealer shall stand restored with effect from the date of such suspension or cancellation, as the case may be.

(15) Suspension or cancellation of a certificate of registration shall not affect the liability of any dealer to pay tax, penalty or interest due for any period till the date of such suspension or cancellation and which has remained unpaid or is assessed thereafter.

(16) The Commissioner shall notify in Official Gazette the details of dealers whose certificate of registration has been suspended or cancelled under the provisions of this Act.

Notification

LA/LEGN/2023/1449

The following bill which was introduced in the Legislative Assembly of the State of Goa on 31st July, 2023 is hereby published for general information in pursuance of Rule-138 of the Rules of Procedure and Conduct of Business of the Goa Legislative Assembly.

The Goa (Recovery of Arrears of Tax, Interest, Penalty, Other Dues through Settlement) Bill, 2023

(Bill No. 31 of 2023)

A

BILL

to provide for the expeditious enforcement of payment of arrears of tax, penalty and/or interest in respect of the period of assessment upto the 30th day of June, 2017 under the Central Sales Tax Act, 1956 (Central Act 74 of 1956), the Goa Entertainment Tax Act, 1964 (Act 2 of 1964), the Goa Sales Tax Act, 1964 (Act 4 of 1964), the Goa Tax on Luxuries Act, 1988 (Act 17 of 1988), the Goa Tax on Entry of Goods Act, 2000 (Act 14 of 2000) and the Goa Value Added Tax Act, 2005 (Act 9 of 2005), by way of settlement and matters connected therewith.

BE it enacted by the Legislative Assembly of Goa in the Seventy-fourth Year of the Republic of India as follows:—

1. *Short title, extent and commencement.*—

(1) This Act may be called the Goa (Recovery

of Arrears of Tax, Interest, Penalty, Other Dues through Settlement) Act, 2023.

(2) It shall extend to the whole of the State of Goa.

(3) It shall come into force from the date of its publication in the Official Gazette.

2. *Definitions.*— (1) In this Act, unless the context otherwise requires,—

(a) “Appellate Authority” means the Appellate Authority specified in sub-section (1) of section 10 of this Act;

(b) “applicant” means a person who is liable to pay arrears of tax, penalty and/or interest, or late fee levied or leviable under the relevant Acts and includes dealer, hotelier or proprietor or his legal heir, successor, assignee or nominee;

(c) “arrears of tax, penalty and/or interest” means,—

(i) tax, by whatever name called, payable by a dealer, hotelier or proprietor upon assessment or otherwise under the relevant Act in respect of the specified period; or

(ii) penalty imposed upon a dealer, hotelier or proprietor, for default in furnishing returns and/or payment of tax, or for any other offence, in accordance with the provisions of the relevant Act, in respect of the specified period; or

(iii) interest payable by a dealer, hotelier or proprietor for default in payment of tax or delay in payment of tax, under the relevant Act in respect of the specified period;

and includes post assessment interest payable under the relevant Act;

(d) “Commissioner” means the Commissioner as referred to in the relevant Act”

(e) “dealer” means the dealer defined in section 2 of the Goa Sales Tax Act, 1964 (Act 4 of 1964)/the Goa Value Added Tax Act, 2005 (Act 9 of 2005)/the Goa Tax on Entry of Goods Act, 2000 (Act 14 of 2000)/the

Central Sales Tax Act, 1956 (Central Act 74 of 1956);

(f) “designated authority” means the authority specified in section 3 of this Act;

(g) “Government” means the Government of Goa;

(h) “hotelier” means the hotelier defined in section 2 of the Goa Tax on Luxuries Act, 1988 (Act 17 of 1988);

(i) “pre-deposit” means an amount payable by the applicant alongwith the application for settlement in pursuance of section 5 of this Act;

(j) “prescribed” means prescribed by rules made under this Act;

(k) “proprietor” means the proprietor defined under clause (ii) of section 2 of the Goa Tax on Luxuries Act, 1988 (Act 17 of 1988);

(l) “relevant Act” means,—

(a) the Central Sales Tax Act, 1956 (Central Act 74 of 1956); or

(b) the Goa Entertainment Tax Act, 1964 (Goa Act 2 of 1964); or

(c) the Goa Sales Tax Act, 1964 (Goa Act 4 of 1964); or

(d) the Goa Tax on Luxuries Act, 1988 (Goa Act 17 of 1988); or

(e) the Goa Tax on Entry of Goods Act, 2000 (Goa Act 14 of 2000); or

(f) the Goa Value Added Tax Act, 2005 (Goa Act 9 of 2005), and the rules framed or notifications issued thereunder;

(m) “settlement amount” means an amount payable for the purpose of settlement at the rate specified in section 8 of this Act;

(n) “specified period” means a period of assessment up to the 30th day of June, 2017;

(o) “website of Commercial Tax Department” means the website as may

be notified by the Commissioner of Commercial taxes.

(2) Unless there is anything repugnant to the subject or context, all words and expressions used in this Act, which are not defined herein, but defined or used in the relevant Act, shall have the same meaning as respectively assigned to them in the relevant Act.

3. *Designated Authority.*— (1) For carrying out the purposes of this Act, the authorities referred to in section 13 of the Goa Value Added Tax Act, 2005 (Act 9 of 2005), or such other authority as the Commissioner may, by order made in that behalf nominate, shall be the Designated Authority and such authority shall have jurisdiction over such area or areas, as may be specified by the Commissioner:

Provided that, the Commissioner may by an order assign or re-assign any application made under sub-section (1) of section 5 from one Designated Authority to other Designated Authority irrespective of his jurisdiction, for administrative convenience.

(2) The Commissioner may, by order published in the Official Gazette and subject to such conditions and limitations as may be specified in this behalf by him, delegate his powers to any officer subordinate to him.

4. *Eligibility for settlement.*— Subject to the other provisions of this Act, an applicant shall be eligible to make an application under section 5 for settlement of his arrears of assessed tax, penalty and/or interest in respect of the specified period:

Provided that, no such application for settlement shall be entertained by the Designated Authority where the Appellate or Revisional Authority or Court has remanded the case back to the assessing authority for fresh assessment and such assessment has not been completed up to the date of commencement of this Act:

Provided further that cases which have been assessed or reassessed under section 31 or section 31A of the Goa Value Added Tax Act, 2005 (Goa Act 9 of 2005) pursuant to

action under section 73 of the Goa Value Added Tax Act, 2005 (Goa Act 9 of 2005), shall not be eligible for adjustment of arrears amount as specified in clause (a) of section 8 and settlement rates specified under clause (b) and (c) of section 8:

Provided further that any case which is disputed and pending in appeal shall be considered to be eligible for settlement under the category of disputed cases only if such appeal is filed within the prescribed limitation period or extended limitation period and is accompanied by the pre-deposit as per the provisions of the relevant Act and rules made thereunder, otherwise such cases shall be considered under undisputed category for the purpose of arriving at settlement benefit under this Act:

Provided also that the cases which have been settled under the Goa (Recovery of Arrears of Tax through Settlement) Act, 2009 (Goa Act No. 17 of 2009) shall not be reopened, except the case where the application for settlement which has been rejected on merits or for non-payment of settlement amount in time or for any other reason and in such case the applicant shall be eligible to submit a fresh application under section 5, subject to his satisfying other conditions of this Act.

5. *Application by the applicant.*— (1) An application for the purpose of section 4 shall be made by an applicant to the Designated Authority after a period of 1 month from commencement of this Act, but before the expiry of six months from the date of commencement of this Act in such Form and in such manner as may be specified by the Commissioner:

Provided that where an amount of tax in arrears for a financial year is below Rs. 10,000/- under the relevant Act, the dealer shall not be required to submit application for settlement:

Provided further that where an applicant is required to submit declaration or/and declaration certificate, in Form 'C', Form 'D', Form 'E-I/E-II', Form 'F', and Form 'H' of the

Central Sales Tax (Registration and Turnover) Rules, 1957 or certificates of exemption in Form ST XI A or ST XI B of the Goa Sales Tax Act, 1964 (Goa Act No. 4 of 1964) or Certificates of Tax Deduction at Source in Form VAT-VII, under the Goa Value Added Tax Act, 2005 (Goa Act 9 of 2005), such applicant shall, upon making an application through the electronic system and after getting an acknowledgment, submit a printed copy thereof duly signed and verified by him to the designated authority along with the declaration form or/and declaration certificate or/and Certificate of Tax Deduction at Source, within one month from the date of filing online application, failing which, the application shall be summarily rejected.

(2) The application under sub-section (1) shall be made online through electronic system. The applicant shall enter the details in accordance with the instructions as provided in the application form for making such application through electronic system:

Provided that, the application shall mandatorily be accompanied by self-attested challans for having deposited a pre-deposit at the rate of 10% of the Settlement amount payable for the purpose of settlement at the rates specified in section 8 or Rs. 15,00,000/- (Rupees Fifteen lakhs), whichever is lower:

Provided further that, where an applicant has paid ten percent or fifty percent, of the disputed tax amount in accordance with sub-section (4) of section 35 or sub-section (2) of section 36, as the case may be, of the Goa Value Added Tax Act, 2005 (Goa Act 9 of 2005) amount of such tax paid, subject to the explanation given below shall be eligible for setoff against the said pre-deposit.

Explanation:— The interest and/or penalty paid in accordance with sub-section (4) of section 35 or sub-section (2) of section 36, as the case may be, of the Goa Value Added Tax Act, 2005 (Goa Act 9 of 2005), shall not be eligible for setoff against the pre-deposit.

(3) An applicant shall make application separately for each year under each of the relevant Acts specified in clause (1) of section 2. The applicant shall file only one application per year per relevant Act.

(4) The Designated Authority shall verify the correctness of the particulars furnished in the application with reference to the records available with the assessing authority or any other authority with whom such records may be available, within a period of twelve months from the date of submission of application which may be extended with the approval of Commissioner.

(5) Where the Designated Authority finds any defects in the application made by the applicant, he shall issue a show cause notice allowing the applicant a minimum of one month's time, which if deemed fit by the Designated Authority on recording the reasons in writing, may be extended to maximum 2 months from the date of such show cause notice to comply with such deficiencies. If the applicant does not respond to such show cause notice or fails to comply with such show cause notice within stipulated time then such application shall be summarily rejected.

6. *Withdrawal of application for settlement.*— (1) An applicant, may withdraw his application filed under section 5 within a period of six months from the date of submission of such application or within one month from the date of receipt of intimation of letter of intimation of settlement amount, whichever is earlier. In case of withdrawal of the application, the pre-deposit paid by the applicant while filing application for settlement shall stand forfeited in favour of the Government.

7. *Determination of amount payable for settlement of arrears.*— (1) Where the Designated Authority is satisfied about the correctness of the particulars set forth in the application made by the applicant, he shall, by order in writing, determine the balance amount payable by the applicant, if any, for the purpose of settlement of arrears of tax,

penalty and/or interest at the rates specified in section 8.

(2) After the amount payable, if any, by the applicant is determined under sub-section (1), the Designated Authority shall inform the same to the applicant by letter of intimation of settlement amount in such form as may be notified by the Commissioner. The applicant shall pay such balance amount by using E-challan in nine equated monthly instalments as per the schedule of payment specified in such letter of intimation:

Provided that the applicant may voluntarily pay the settlement amount in a lump sum or instalments before the schedule given by the designated authority.

Provided further that, in case the applicant fails to pay first instalment on or before the due date intimated to the applicant or fails to pay the total amount for settlement on or before the due date of last instalment as intimated to the applicant, the application made under section 5 shall be liable to be rejected and pre-deposit amount shall be forfeited in favour of Government:

Provided further that, where an amount is to be adjusted as per the Refund Adjustment Order, the Designated Authority shall adjust such amount proportionately with the tax, penalty and/or interest:

Provided also that, after making the payments as specified above applicant shall upload self-attested copy of such E-challan through electronic system within a period of one month from the date of such payment.

(3) The Designated Authority may, on his own motion or on application of the applicant, within six months from the date of issue of intimation of settlement amount to the applicant, rectify any error apparent thereon:

Provided that, the application for rectification shall be made by the applicant within two months from the date of the receipt of intimation of the applicant and copy of paid e-challan or e-receipt shall be enclosed with such application:

Provided further that, no intimation of settlement amount adversely affecting the applicant shall be issued without giving him a reasonable opportunity of being heard.

(4) Where any balance amount is payable by the applicant such amount shall be paid as under:

(a) Where an applicant being a dealer, whose appeal is pending before the Appellate Authority under the relevant Act or before the Tribunal, as on date of the commencement of this Act and has paid ten percent or fifty percent of the disputed amount of tax in accordance with sub-section (4) of section 35 or sub-section (2) of section 36, as the case may be, of the Goa Value Added Tax Act, 2005 (Goa Act 9 of 2005) shall be eligible for setoff of such tax amount against the balance amount by using E-challan and shall upload a self-attested photocopy of such E-challans in proof of payment of the amount as determined and intimated by the Designated Authority.

(b) where the Designated Authority is satisfied that the applicant being a dealer, whose appeal is pending before the Appellate Authority under the relevant Act or before the Tribunal as on the date of the commencement of this Act and, has paid ten percent or fifty percent of the disputed amount of tax in accordance with sub-section (4) of section 35 or sub-section (2) of section 36, as the case may be, of the Goa Value Added Tax Act, 2005 (Goa Act 9 of 2005) and that there is no further amount payable for the purpose of settlement at the rates specified in section 8, he shall issue a certificate of settlement in such form and manner as may be specified by the Commissioner to the applicant and thereupon, such applicant shall be discharged from his liability to make payment of the balance amount of arrears of tax, penalty and/or interest to which he was liable before settlement.

(c) Where an applicant whose appeal is pending before the Appellate Authority under the Goa Value Added Tax Act, 2005 (Act 9 of 2005) or the Tribunal, as on date of the commencement of this Act and who has paid ten percent or fifty percent of the disputed amount of interest and penalty in accordance with sub-section (4) of section 35 or sub-section (2) of section 36, as the case may be, of the Goa Value Added Tax Act, 2005 (Goa Act 9 of 2005) wherever applicable, such amount shall not be adjusted against the amount payable for the purpose of settlement of tax at the rates specified in section 8:

Provided that where amount payable for settlement is determined as per the rate specified in clause (d) of section 8 and where an applicant whose appeal is pending before the Appellate Authority under the Goa Value Added Tax Act, 2005 (Act 9 of 2005) or the Tribunal, as on date of the commencement of this Act and who has paid ten percent or fifty percent of the disputed amount of penalty in accordance with sub-section (4) of section 35 or sub-section (2) of section 36, as the case may be, of the Goa Value Added Tax Act, 2005 (Goa Act 9 of 2005) wherever applicable, such amount shall be adjusted against the amount payable for the purpose of settlement of penalty at the rates specified in clause (d) of section 8 and balance amount of penalty after such adjustment, if any, shall not be refunded:

Provided further that in respect of cases where any appeal or application for Review/Revision/Rectification is not filed under the provisions of the relevant Act, the applicant shall not be eligible for refund of any penalty or interest already paid, either in full or in part under this Act:

Provided further that where an applicant whose appeal is pending before the Appellate Authority under the Goa Value Added Tax Act, 2005 (Act 9 of 2005) or the Tribunal, as on date of the commencement of this Act and who has paid ten percent or fifty percent of the disputed amount of interest in accordance with sub-section (4) of section 35 or

sub-section (2) of section 36, as the case may be, of the Goa Value Added Tax Act, 2005 (Goa Act 9 of 2005) wherever applicable, such amount shall not be adjusted against the amount payable for the purpose of settlement nor shall be refunded:

Provided also that where no amount is found payable by the applicant, the Designated Authority, shall proceed to issue a certificate of settlement under section 9 in such form and manner as may be specified by the Commissioner.

8. Rate applicable in determining the amount payable.— The amount payable by an applicant for settlement of arrears of tax, interest and/or penalty shall be as follows:-

(a) Where the arrears of tax, interest and/or penalty have arisen due to non-submission of declaration form or declaration certificate, in Form 'C', Form 'D', Form 'E-I/E-II', Form 'F', Form 'H' of the Central Sales Tax (Registration and Turnover) Rules, 1957 or certificates of exemption in Form ST XI A or ST XI B, of the Goa Sales Tax Act, 1964 (Goa Act No. 4 of 1964) or Certificates of Tax Deduction at Source in Form VAT-VII, under the Goa Value Added Tax Act, 2005 (Goa Act 9 of 2005), such dues determined in any order of assessment relating to the specified period under the relevant Act, shall be settled at the rates mentioned in clause (b) and (c) of this section after considering the declaration form or declaration certificate which the dealer has submitted till the date of submission of the application for settlement under sub section (1) of section 5.

(b) Where the arrears of tax, interest and/or penalty have arisen on account of any order of assessment relating to the specified period and where no review or appeal or revision is preferred against such order or already decided as on the date of commencement of this Act, such arrears, after adjustment as per clause (a) of this section, shall be settled at the rate of 80% of the arrears of tax; and any interest levied

thereon and/or penalty imposed thereof shall be waived fully.

(c) Where the arrears of tax, interest and/or penalty have arisen on account of any order of assessment relating to the specified period is disputed, either in review or appeal or in revision or in any other suit or writ petition, filed before any court of law, on or before the date of the commencement of this Act such arrears, after adjustment as per clause (a) of this section, shall be settled at the rate of 50% of the arrears of tax; and any interest levied thereon and/or penalty imposed thereof shall be waived fully.

(d) Where the arrears of tax, interest and/or penalty have arisen on account of any order of assessment or reassessment under section 31 or section 31A of the Goa Value Added Tax Act, 2005 (Goa Act 9 of 2005) pursuant to action under section 73 of Goa Value Added Tax Act, 2005 (Goa Act 9 of 2005), relating to the specified period whether disputed or not on or before the date of the commencement of this Act, such arrears shall be settled at the rate of 100% of the arrears of tax; and 50% of penalty imposed thereof and interest shall be waived fully.

(e) Where the arrears of tax is less than Rs. 10,000/-, such arrears shall be settled by allowing full waiver from payment of tax, interest and/or penalty.

(f) Notwithstanding anything contained in clause (a), (b), (c), (d) and (e) above, the applicant shall not be eligible for refund of any amount that may become excess as a result of settlement under the provisions of this Act.

(g) When a certificate of settlement is issued under section 9 of this Act, entire post assessment interest on the dues under the relevant Act for the period covered under certificate of settlement shall stand waived fully.

9. Settlement of arrears and issue of certificate of settlement.— (1) The designated

authority, on being satisfied that the applicant has paid the amount determined under section 7, shall issue a certificate of settlement in such form and manner as may be specified by the Commissioner to the applicant and thereupon, such applicant shall be discharged from his liability to make payment of the balance amount of arrears of tax, interest and/or penalty to which he was liable before settlement:

Provided that, the designated authority shall issue such certificate of settlement within a period of six months from, the due date of payment of last instalment incase dues are payable as per intimation of settlement amount or from the date of issue of letter of intimation of settlement amount incase Nil dues are payable as per the said intimation. Provided that this period for issuing certificate of settlement may be further extended with the approval of Commissioner.

(2) The designated authority may, by Order and for reasons to be recorded in writing, reject the application of the applicant on the ground that no question of settlement arises or rectify or amend the certificate of settlement issued under sub-section (1):

Provided that no order adversely affecting the applicant shall be passed without giving him a reasonable opportunity of being heard.

(3) The designated authority, on being satisfied that the cases recommended by the unit incharge where outstanding tax dues is less than Rs. 10,000/-, are eligible for settlement, shall issue a certificate of settlement in such form and manner as may be specified by the Commissioner to such dealer and thereupon, such dealer shall be discharged from his liability to make payment of the amount of arrears of tax, interest and/or penalty to which he was liable before settlement. Such cases shall be settled as under:

(a) in case of a dealer, where amount due in arrears of tax for a financial year under the relevant Act does not exceed Rs. 10,000/-, the unit incharge of the case

shall submit a list of such dealers to the designated authority for settlement.

(b) ward incharge of each ward offices shall publish the list of cases mentioned in clause (a) above on website of the Commercial Tax Department within one month from the commencement of this Act.

(c) in case, if any dealer is not included in the above list, he shall make a written request to the unit incharge before the expiry of the time period for submission of the application under section 5. The concerned officer shall within one month of receipt of such request verify and proceed to recommend such case for settlement.

(d) on issue of certificate of settlement in such form and manner as may be specified by the Commissioner, the status of the application in each case shall be updated on the website of Commercial Tax Department as "Settled."

(4) The designated authority may, by an Order, and for reasons to be recorded in writing, reject the recommendation for settlement of case by the unit incharge. If the Designated Authority is satisfied that the dealer would have been eligible for settlement of arrears by making an application under section 5, had the case not recommended by the unit incharge, then in such cases an opportunity for settlement shall be given as under:-

(a) The designated authority on the basis of information on record or by calling such information from such eligible dealer shall determine the amount payable as per section 8 and communicate amount of arrears proposed to be settled and the amount payable for settlement by intimation of settlement amount in such form as may be specified by the Commissioner along with rejection order.

(b) The dealer desirous of settling such dues shall make the payment by using e-challan and upload the self-attested copy

of paid challan in such manner as may be specified.

(c) The designated authority, on being satisfied that the dealer has paid the amount as determined and communicated in the intimation of settlement amount, shall issue a certificate of settlement in such form and manner as may be specified by the Commissioner to the dealer and thereupon, such applicant shall be discharged from his liability to make payment of the balance amount of arrears of tax, interest and/or penalty to which he was liable before settlement.

(5) Where any applicant fails to deposit the total amount for settlement on or before the due date of last instalment as intimated to the applicant or fails to make payment of first instalment within due date as intimated to the applicant, the designated authority shall by order reject the application for settlement and forfeit any amount paid as pre-deposit.

10. Appeal against order passed under this Act.— (1) Any person aggrieved by an order passed under this Act may prefer an appeal before Commissioner within two months from the date of receipt of such order.

(2) The Commissioner may by an order delegate to Additional Commissioner his power to hear, make such further inquiry as may be necessary, and to pass such order as he deems fit.

(3) There shall be no second appeal against an order passed under this section.

11. Review of order passed under this Act.— (1) The Commissioner may on his own motion call for and examine the records of any proceedings under this Act and if he considers that any order passed by the designated authority under this Act, in so far as, it is prejudicial to the interest of revenue, may pass such fresh order as he deems fit within twelve months from the date of passing of the original order.

(2) An order passed under this Act by the designated authority may be reviewed by

such authority passing it upon an application or on its own motion in case of any error apparent on the face of the record, at any time within twelve months from the date of passing such order.

(3) Any person may file a review application to the designated authority within two months from the date of receipt of order by him. A non-refundable processing fee of rupees five hundred only shall be paid by the applicant and copy of paid e-challan or e-receipt shall be enclosed with such review application.

(4) No order adversely affecting the applicant shall be passed without giving him a reasonable opportunity of being heard.

12. Bar on re-opening of settled cases.— Subject to other provisions of this Act, a certificate of settlement issued under this Act shall be conclusive as to the settlement of arrears covered under said Certificate, and the matter covered by such certificate of settlement shall not be re-opened in any proceeding of review or revision or any other proceedings under the relevant Act, except any proceedings on account of specific observations made by the Comptroller and Auditor General of India.

13. Withdrawal of review application, appeal and revision.— Notwithstanding anything to the contrary contained in any provision in the relevant Act, the review, appeal or revision for any period pending before the Reviewing, Appellate or the Revisional Authority, as the case may be, in respect of which a certificate of settlement is issued under sub-section (1) of section 9, shall be deemed to have been withdrawn by the applicant from the date of making of the application under sub-section (1) of section 5.

14. Reviewing, Appellate and Revisional Authority not to proceed in certain cases.— No Assessing Authority, Reviewing Authority, Appellate Authority or Revisional Authority shall proceed to decide any assessment,

review, appeal or revision under the relevant Act relating to any period in respect of which an application has been made under section 5 of this Act:

Provided that such authority shall proceed to decide such assessment, review, appeal or revision for such period in accordance with the provisions of the relevant Act, if a certificate of settlement referred to in sub-section (1) of section 9 is refused to the applicant by an order passed by the designated authority in writing.

15. Revocation of certificate of settlement.—

(1) Notwithstanding anything contained in section 12 and 13, where it appears to the designated authority that an applicant has obtained the benefit of settlement under this Act by suppressing any material information or particulars or by furnishing any incorrect or false information or particulars, such designated authority may, within four years from the date of issue of such certificate, for reasons to be recorded in writing and after giving the applicant a reasonable opportunity of being heard, revoke the certificate of settlement issued under sub-section (1) of section 9.

(2) If a certificate of settlement is revoked under sub-section (1), the assessment, review, appeal or revision, as the case may be, under the relevant Act, covered by such certificate of settlement, shall, notwithstanding the provisions of sections 12 and 13, stand revived or reinstated immediately upon such revocation, and such assessment, review, appeal or revision shall be decided in accordance with the provisions of the relevant Act, as if no settlement of the arrears of tax, interest and/or penalty in dispute in such review, appeal or revision has ever been made under this Act.

16. Information to be sent to the authorities under the relevant Act.— The designated authority shall keep the assessing authority, the reviewing authority, the appellate authority or the revisional authority, who, for the time being, has jurisdiction over the

applicant under the relevant Act, informed, inter alia of—

(a) making of an application by an applicant under section 5;

(b) passing of any certificate or Order by the designated authority under section 9; or

(c) revocation of any certificate of settlement under section 15,

in such form and manner, and within such time, as may be specified by the Commissioner by an Order.

17. No refund of amount paid under the Act.— Any amount paid by an applicant under this Act shall not be refundable under any circumstances:

Provided that in case of revocation of a certificate of settlement in accordance with section 15, the amount paid by the applicant under section 7 shall be treated to have been paid under the relevant Act for the period for which the certificate of settlement has been revoked.

18. Power to make rules.— The Government may, by notification in the Official Gazette, make rules, either prospectively or with retrospective effect, for carrying out the purposes of this Act, and such rules may provide for all or any of the matter which, under any provision of this Act is required to be prescribed or to be provided by rules.

19. Power of Commissioner under this Act.— (1) The Commissioner may, from time to time, issue instructions and directions as he may deem fit for carrying out the purposes of this Act.

(2) The Commissioner may, by an order, specify the forms for the purposes of this Act and the manner in which the form shall be submitted.

20. Power to remove difficulties.— If any difficulty arises in giving effect to any of the provisions of this Act, the Government may,

by order published in the Official Gazette, as the occasion may require, do anything which appears to it to be necessary to remove the difficulty:

Provided that no such order shall be made after expiry of two years from the date of coming into force of this Act.

Statement of Objects and Reasons

With a view to give effect to the proposals contained in the Budget Speech for the financial year 2023-24, the Government considers it expedient to provide for settlement of arrears of tax, interest, penalty which were levied, payable or imposed under the various Acts administered by the Commercial Tax Department.

Prior to the implementation of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017) with effect from the 1st July, 2017, various Tax Laws were in force in the State. As sizeable portion of the recovery is locked under litigation, in order to unlock the amount involved in the outstanding dues and reduce the old pending litigation, the Government considers it expedient to provide for a scheme for settlement of arrears of tax, interest, penalty or late fees under various tax laws, for the period upto 30th June, 2017.

The Bill seeks to provide relief to small industries, traders and other dealers who are under financial stress, by giving facility of settlement of dues and closure of old pending litigations so that the dealers who are in financial crunch, can settle their arrears of tax, penalty and/or interest with payments in instalments.

This Bill seeks to achieve above objects.

Financial Memorandum

The proposed the Goa (Recovery of Arrears of Tax, Interest, Penalty, Other Dues through Settlement) Bill, 2023 to provide for settlement of arrears under various Acts administered by the Commercial Tax Department so as to give effect to the proposals contained in the Budget Speech for the financial year 2023-2024. There is no provision in the Bill which

would involve the recurring or non-recurring expenditure from the Consolidated Fund of the State.

Memorandum Regarding Delegated Legislation

Clause 3(2) of the Bill authorizes the Commissioner to delegate his powers to any officer subordinate to him.

Clause 10 of the Bill authorizes the Commissioner to delegate the powers to hear and decide appeals under the Bill to Additional Commissioners.

Clause 18 of the Bill empowers the Government to frame rules with prospective or retrospective effect for carrying out the purposes of the Act.

Clause 19 of the Bill empowers the Commissioner, to issue order specifying the forms for the purposes of the Act.

Clause 20 of the Bill empowers the Government to issue an order for the purpose of removing any difficulty, which may arise in giving effect to the provisions of this Act within a period of two years from the date of publication of the Act.

These delegations are of normal character.

Assembly Hall, Dr. PRAMOD SAWANT
Porvorim, Goa. Hon. Chief Minister/
25th July, 2023. Finance Minister.

Assembly Hall, NAMRATA ULMAN
Porvorim, Goa. Secretary to the Legislative
25th July, 2023. Assembly of Goa.

Governor's Recommendation under Article 207 of the Constitution of India

In pursuance of Article 207 of the Constitution of India, I, P. S. Sreedharan Pillai, the Governor of Goa hereby recommend to the Legislative Assembly of Goa, the introduction and consideration of the Goa (Recovery of Arrears of Tax, Interest,

Penalty, Other Dues through Settlement)
Bill, 2023.

RAJ BHAVAN
Date: 25-07-2023.

P. S. SREEDHARAN PILLAI,
His Excellency,
Governor of Goa.

Notification

LA/LEGN/2023/1450

The following bill which was introduced in the Legislative Assembly of the State of Goa on 31st July, 2023 is hereby published for general information in pursuance of Rule-138 of the Rules of Procedure and Conduct of Business of the Goa Legislative Assembly.

**The Goa Staff Selection Commission
(Amendment) Bill, 2023**

(Bill No. 33 of 2023)

A

BILL

*further to amend the Goa Staff Selection
Commission Act, 2019 (Goa Act 11 of 2019).*

BE it enacted by the Legislative Assembly of Goa in the Seventy-fourth Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Goa Staff Selection Commission (Amendment) Act, 2023.

(2) It shall be deemed to have come into force on the 9th day of May, 2023.

2. *Amendment of section 7.*— In section 7 of the Goa Staff Selection Commission Act, 2019 (Goa Act 11 of 2019), in sub-section (8), for the existing proviso, the following proviso shall be substituted, namely:—

“Provided that where advertisements for filling up of the sub-ordinate services/posts were issued prior to the 8th day of January, 2022, the concerned Department may

conduct examination and complete the selection process of such sub-ordinate services/posts not later than 31st day of October, 2023.”.

3. *Repeal and savings.*— (1) The Goa Staff Selection Commission (Amendment) Ordinance, 2023 (Ordinance No. 2 of 2023) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Goa Staff Selection Commission Act, 2019 (Goa Act 11 of 2019) as amended by the said Ordinance, shall be deemed to have been done or taken under the said Act, as amended by this Act.

Statement of Objects and Reasons

The Goa Staff Selection Commission Act, 2019 (Goa Act 11 of 2019) (hereinafter referred to as the “said Act”) was amended vide Goa Act 33 of 2022 inserting the proviso to sub-section (8) of section 7 of the said Act enabling the concerned Department to conduct examination and complete the selection process to sub-ordinate services/posts not later than one year from the date of commencement of the Goa Staff Selection Commission (Amendment), Act, 2022 in cases where advertisements for filling up the sub-ordinate services/posts were issued prior to 8th day of January, 2022.

Some of the Departments that have issued advertisements for filling up of sub-ordinate services/posts prior to the 8th January, 2022, have not completed the process of conduct of the examination and selection for filling up of such posts.

The Bill seeks to amend said proviso to sub-section (8) of section 7 of the said Act so as to extend the time limit upto 31st October, 2023 for the Departments to complete the process of conduct of the examination and selection for filling up of such posts where advertisements were issued prior to 8th day of January, 2022.

The Bill also seeks to repeal the Goa Staff Selection Commission (Amendment)

Ordinance, 2023 (Ordinance No. 2 of 2023)
promulgated by the Governor of Goa on
09-05-2023.

This Bill seeks to achieve the above
objects.

Financial Memorandum

Financial implications are involved in this
Bill in relation to the recruitment process,
salaries etc.

Memorandum Regarding Delegated Legislation

No delegated legislation is envisaged in
this Bill.

Assembly Hall,
Porvorim-Goa,
25th July, 2023. Dr. PRAMOD SAWANT
Hon. Chief Minister, Goa.

Assembly Hall,
Porvorim-Goa.
25th July, 2023. NAMRATA ULMAN
Secretary (Legislature)

ANNEXURE

Extract of the Section 7 of the Goa Staff Selection Commission Act, 2019.

Amendment of section 7.— In section 7 of the
Goa Staff Selection Commission Act, 2019 (Goa Act
11 of 2019) after sub-section (7), the following sub-
section shall be inserted, namely:—

“(8) Notwithstanding anything contained in
this section, the Government Departments may,
after obtaining prior approval from the
Department of Personnel of the Government,
conduct examinations for selecting candidates
for appointment to sub-ordinate services/posts
for a period of one year from the date of
commencement of the Goa Staff Selection
Commission (Amendment) Act, 2021.”.

Assembly Hall,
Porvorim-Goa.
25th July, 2022. NAMRATA ULMAN
Secretary (Legislature).

Notification

LA/LEGN/2023/1451

The following bill which was introduced
in the Legislative Assembly of the State of
Goa on 31st July, 2023 is hereby published
for general information in pursuance of Rule-
138 of the Rules of Procedure and Conduct of
Business of the Goa Legislative Assembly.

The Goa Scheduled Castes, Scheduled Tribes and Other Backward Classes Category (Regulation of Issuance and Verification of Caste Certificate) Bill, 2023

(Bill No. 34 of 2023)

A

BILL

*to provide for the regulation of the issuance
and verification of the Caste Certificates to
the persons belonging to the Scheduled
Castes, Scheduled Tribes and Other
Backward Classes Category and for matters
connected therewith or incidental thereto.*

BE it enacted by the Legislative Assembly
of Goa, in the Seventy-fourth year of the
Republic of India as follows:—

1. *Short title and commencement.*— (1) This
Act may be called the Goa Scheduled Castes,
Scheduled Tribes and Other Backward
Classes Category (Regulation of Issuance and
Verification of Caste Certificate) Act, 2023.

(2) It shall come into force on such date, as
the Government may, by notification in the
Official Gazette, appoint.

2. *Definitions.*— In this Act, unless the
context otherwise requires.

(a) “appointing authority”, in relation to
a Government servant, means,

(i) the authority empowered to make
appointments to the service of which the
Government servant is for the time being

a member or to the grade of the service in which the Government servant is for the time being included, or

(ii) the authority empowered to make appointments to the post which the Government servant for the time being holds, or

(iii) the authority which appointed the Government servant to such service, grade or post, as the case may be, or

(iv) where the Government servant having been a permanent member of any other Service or having substantively held any other permanent post, has been in continuous employment of the Government, the authority which appointed him to that Service or to any grade in that Service or to that post, whichever authority is the highest authority.

(b) "Appellate Authority" means the Collector of the District;

(c) "Caste Certificate" means the certificate issued by the Competent Authority to an applicant indicating therein the Scheduled Caste, Scheduled Tribe or the Other Backward Class Category, as the case may be, to which such applicant belongs;

(d) "Competent Authority" means the Deputy Collector and Sub-Divisional Magistrate of the respective Talukas, having jurisdiction over the area or place to which the applicant originally belongs, unless specified otherwise;

(e) "educational institution" means any School, Junior College, Degree College, College of Education, Polytechnic, Industrial Training Institute, College of Fine Arts and Architecture, College of Music and Dance, Engineering College, Agricultural College, Veterinary College, Medical College, Dental College, Ayurvedic College, Homoeopathic College, Unani College, Nurses Training School, Health Visitors

Training School, Vocational Training Institution, Deemed University, Open University and various colleges under the control of any University established by or under an Act of the State Legislature and such other Institution, by whatever name called, which is carrying on (either exclusively or among other activities) the activity of imparting education as may be notified by the Government from time to time;

(f) "elective office" means a public office to be filled by a direct election against a seat in a Local Authority, the State Legislature or the Parliament;

(g) "Government" means the Government of Goa;

(h) "Local Authority", in relation to local areas, means the concerned Municipal Corporation, Municipal Councils and in relation to any other local area in the State, means the village panchayats, as the case may be, constituted under any law for the time being in force in the State of Goa;

(i) "Other Backward Classes" means any Socially and Educationally Backward Classes of citizens as declared by the Government and includes Other Backward Classes declared by Government of India in relation to the State of Goa;

(j) "prescribed" means prescribed by rules made under this Act;

(k) "Scheduled Castes" and "Scheduled Tribes" shall have the meanings respectively assigned to them in the clause (24) and clause (25) of article 366 of the Constitution of India;

(l) "Scrutiny Committee" means the Committee constituted under sub-section (1) of section 6 of this Act;

(m) "Vigilance Cell" means the Vigilance Cell constituted under section 7 of this Act;

3. *Application for a Caste Certificate.*— Any person belonging to any of the Scheduled Castes or Scheduled Tribes or Other Backward Classes, who is required to produce

a Caste Certificate in order to claim the benefit of any reservation provided to such Castes, Tribes or Classes, either in any public office (s) or for admission into any educational institution, or any other benefit under any special provisions made under clause (4) or (5) of article 15 and clause (4) or (4A) of article 16 of the Constitution of India, or for the purpose of contesting for an elective post in the State Legislative Assembly or the Parliament or any local authority or in the Co-operative Societies, or any other purposes as may specified by the Government, shall apply three months prior to claiming such benefit, in such form and in such manner as may be prescribed, to the Competent Authority for the issue of a Caste Certificate.

4. Caste Certificate to be issued by competent authority.— (1) The Competent Authority may, upon receipt of an application under section 3, and after satisfying itself about the genuineness of the claim and by following the procedure as prescribed, issue a Caste Certificate within such time limit and in such form as may be prescribed or reject the application for reasons to be recorded in writing.

(2) The Competent authority shall reject the application for caste certificate, if it finds that there is any fraud, misrepresentation or suppression of facts by the applicant:

Provided that, the rejection by the Competent Authority on the ground of fraud, misrepresentation or suppression of facts shall not debar any person from applying de-novo for a caste certificate based on proper, genuine and authentic material.

(3) A Caste Certificate issued by any person, officer or authority other than the Competent Authority shall be invalid. The Caste Certificate issued only by the Competent Authority shall be valid and it shall be subject to the verification and grant of validity certificate by the Scrutiny Committee.

(4) Subject to the proviso of sub-section (2), no new application seeking issuance of a Caste Certificate shall be entertained by the

Competent Authority, if the earlier request or claim of the same applicant has been rejected by the Competent Authority and the same is confirmed by the Appellate Authority or the validation of the Caste Certificate of same applicant stands rejected by the Scrutiny Committee on prior occasion.

5. Appeal.— (1) Any person aggrieved by an order of rejection of application passed by the Competent Authority under sub-section (1) of section 4 may, within a period of 30 days from the date of receipt of order, appeal to the Appellate Authority, in such form and manner, as prescribed.

(2) The Appellate Authority shall within a period of three months, after giving the appellant an opportunity of being heard and after satisfying itself about the genuineness or otherwise of the claim of the appellant, either confirm the rejection order, or set aside the order of the Competent Authority and direct the Competent Authority to issue the caste certificate.

6. Constitution of Scrutiny Committee.— (1) The Government shall by notification in the Official Gazette, constitute one or more Scrutiny Committee(s) for verification of Caste Certificates issued by the Competent Authorities under sub-section (1) of section 4, which shall consist of the following members, namely:—

(a) Collector or Additional Collector or Joint Secretary to the Government or any officer not below the rank of Joint Secretary to the Government-----Chairman.

(b) Director or Deputy Director of the Directorate of Social Welfare-----Member.

(c) Assistant Director of Backward Classes, Directorate of Social Welfare-----Member Secretary.

(d) In the case of Scheduled Castes, officer who has intimate knowledge in the verification and issuance of the social status certificates-----Member.

(e) In the case of the Scheduled Tribes, the Research Officer who has intimate knowledge in identifying the tribes, tribal

communities, parts of or groups of tribes or tribal communities-----Member.

(2) The Scrutiny Committee shall perform such functions, conduct proceedings in such manner and exercise such powers, as prescribed.

7. *Constitution of Vigilance Cell.*— The Government shall constitute, by notification in the Official Gazette, a Vigilance Cell consisting of Senior Deputy Superintendent of Police in over-all charge and such number of Police Inspectors, Sub-Inspectors or Constable as deemed appropriate, to investigate the claim, collect the facts, examine the records, examine the relations or friends and persons who know the social status of the applicant and submit a report to the Scrutiny Committee so as to facilitate the process of verification of caste and validation of the caste certificate of the applicant.

8. *Verification of Caste Certificate by Scrutiny Committee.*— (1) After obtaining the Caste Certificate from the Competent Authority, any person desirous of availing of the benefits or concessions provided to the Scheduled Castes, Scheduled Tribes, or Other Backward Classes Category for the purpose specified in section 3, shall make an application, within a period of three months from the date of issuance of such caste certificate in such form and in such manner as prescribed, to the concerned Scrutiny Committee for the verification of such Caste Certificate and to issue a validity certificate:

Provided that where no application is made under sub-section (1) within a period of 3 months from the date of issuance of the Caste Certificate, the Caste Certificate issued by the Competent Authority shall lapse:

Provided further that such lapse shall not prevent the applicant from re-applying for a Caste Certificate before the Competent Authority under sub-section (1) of section 4.

(2) In case on the basis of a caste certificate issued by the Competent Authority, any person is selected for an appointment with the Government, local authority, public sector

undertakings or admitted to an educational institution(s), or appointed in a Co-operative society(s) or any other Government aided institution(s), or secured an elective office either in the local authority or State Legislature or Parliament, but has not obtained validity certificate from the Scrutiny Committee, the appointing authority of the Central or State Government, local authority, public sector undertakings, educational institutions, Co-operative Societies or any such other authority, as the case may be, shall direct the person (s) so concerned to get his Caste Certificate verified by the Scrutiny Committee and obtain the validity certificate from the Scrutiny Committee within a period of 6 months, by making an application in such form and in such manner as prescribed:

Provided, that where such person(s) fails to procure the validity certificate within the said period, save as otherwise for any delay on part of the Scrutiny Committee, he shall cease to be entitled to continue with the appointment or admission or like benefit which are provisioned for the Schedule Tribes, Schedule Castes or Other Backward Classes Category.

(3) The Scrutiny Committee shall upon receipt of application under sub-section (1) and (2) shall seek a report from the Vigilance Cell and follow such procedure for verification of the Caste Certificate and adhere to such time limit for verification and grant of validity certificate, as prescribed.

9. *Confiscation and cancellation of false Certificate.*— (1) Where, before or after the commencement of this Act, a person not belonging to any of the Scheduled Castes, Scheduled Tribes, or Other Backward Classes Category, has obtained a false Caste Certificate to the effect that either himself or his children belong to such Castes, Tribes or Classes; the Scrutiny Committee may, suo motu or otherwise, call for the record and enquire into the correctness of such certificate and if it is of the opinion that the certificate was obtained fraudulently, it shall, by an order cancel and confiscate

the certificate by following such procedure as prescribed, after giving the person concerned an opportunity of being heard, and communicate the same to the concerned person and the concerned authority, if any.

(2) The order passed by the Scrutiny Committee under this Act shall be final and shall not be challenged before any authority or court except the High Court under article 226 of the Constitution of India.

10. *Burden of Proof.*— Where an application is made to the Competent Authority under section 3 of the issue of a Caste Certificate in respect of Scheduled Castes, Scheduled Tribes, or Other Backward Classes Category; and in any enquiry conducted by the Competent Authority and Scrutiny Committee or the Appellate Authority under this Act or any trial of offence under this Act, the burden of proving that the person belonged to such Caste, Tribe or Class shall be on such claimant applicant.

11. *Civil Court powers to Competent Authority, Appellate Authority, and Scrutiny Committee.*— (1) The Competent Authority, the Appellate Authority and the Scrutiny Committee shall, while holding an enquiry under this Act, have all the powers vested in a Civil Court while trying a suit under the Code of Civil Procedure, 1908 (5 of 1908) and in particular in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any Court or office and;

(e) issuing Commissions for the examination of witnesses or documents.

(2) Any proceeding before the Competent Authority, the Appellate Authority and the Scrutiny Committee, shall be deemed to be

judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code, 1860 (Central Act 45 of 1860).

12. *Benefits secured on the basis of false Caste Certificate to be withdrawn.*— (1) Whoever not being a person(s) belonging to any of the Scheduled Castes, Scheduled Tribes or Other Backward Classes Category secures admission in any educational institution against a seat reserved for such Castes, Tribes or Classes, or secures any appointment in the Government, local authority or in any other Company or Corporation owned or controlled by the Government, or secures an elective office in a local authority, State Legislature or Parliament, or in any Government aided institution or Co-operative Society against a post reserved for such Castes, Tribes or Classes by producing a false Caste Certificate shall, on cancellation of the Caste Certificate by the Scrutiny Committee, be liable to be debarred from the concerned educational institution, or as the case may be, discharged from the said employment or holding of elective office forthwith and any other benefits enjoyed or derived by virtue of such admission or appointment or election by such person as aforesaid shall be withdrawn forthwith.

(2) Any amount paid to such person(s) by the Government or any other agency by way of scholarship, grant, allowance or other financial benefit shall be recovered from such person as an arrears of land revenue.

(3) Notwithstanding anything contained in any other law for the time being in force, any Degree, Diploma or any other educational qualification acquired by such person(s) after securing admission in any educational institution on the basis of a Caste Certificate which is subsequently proved to be false shall also stand cancelled, on cancellation of such Caste Certificate by the Scrutiny Committee.

(4) Notwithstanding anything contained in any other law for the time being in force, a person shall be disqualified from being a member of statutory body, Local Authority,

State Legislature or the Parliament, if he has contested the election for such local authority, State Legislature, Parliament, co-operative society or any statutory body on the seat reserved for any of Scheduled Castes, Scheduled Tribes, or Other Backward Classes Category, by procuring and producing a false Caste Certificate as belonging to such Caste, Tribe or Class, upon such false Caste Certificate being cancelled by the Scrutiny Committee, and any benefits obtained by such person shall be recoverable as arrears of land revenue and the election of such person shall be deemed to have been terminated retrospectively.

13. *Offences and Penalties.*— (1) Whoever—

(a) obtains a false Caste Certificate by furnishing false information or filing false statement or documents or by any other fraudulent means; or

(b) not being a person belonging to any of the Scheduled Castes, Scheduled Tribes, or Other Backward Classes Category, secures any benefits or appointments exclusively reserved for such Castes, Tribes, or Classes in the Government, local authority or any other company or corporation owned or controlled by the Government or in any Government aided institution, or secures admission in any educational institution against a seat exclusively reserved for such Castes, Tribes or Classes or is elected to any of the elective offices of any local authority, State Legislature, Parliament or Co-operative Society, reserved for such Castes, Tribes or Classes by producing a false Caste Certificate; shall, on conviction, be punished, with rigorous imprisonment for a term which shall not be less than six months but which may extend up to two years or with fine which shall not be less than ten thousand rupees, but which may extend up to one lakh rupees or both.

(2) No court shall take cognizance of an offence punishable under this section except upon a complaint, in writing, made by the Scrutiny Committee or by any other officer

duly authorised by the Scrutiny Committee for this purpose.

14. *Offences under Act to be cognizable and non-bailable.*— Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974).

(a) offences punishable under section 13 shall be cognizable and non-bailable;

(b) every offence punishable under this Act, shall be tried by any Magistrate of First Class in a summary way and provisions of section 262 to section 265, except sub-section (2) to section 265, both inclusive of the Code of Criminal Procedure, 1973 (2 of 1974) shall, as far as practicable may be applied to such trial.

15. *Penalty for issuing false Caste Certificate.*— (1) Any person or authority performing the functions of Competent Authority under this Act, who intentionally and knowingly issues a false Caste Certificate, shall, on conviction, be punished with rigorous imprisonment for a term which shall not be less than six months but which may extend upto two years or with fine which shall not be less than two thousand rupees, but which may extend upto twenty thousand rupees or both.

(2) No court shall take cognizance of an offence punishable under this section except with the previous sanction of the Government.

16. *Penalty for abetment.*— Whoever abets commission of any offence punishable under this Act shall be punished with punishment provided for in this Act for such offence.

17. *Bar of jurisdiction of Civil Courts.*— No Civil Court shall have jurisdiction to entertain, to continue or to decide any suit or proceedings relating to the issue of identification of the caste of a person and the process for verification thereof, as provided for under this Act; or, proceed to pass any decree or order or execute wholly or partially any decree or order, if the claim involved in such suit or proceeding, or if the passing of such decree or order or if such execution

would in any way be contrary to the provisions of this Act.

18. *Protection for acts done in good faith.*— No suit, prosecution or other legal proceedings shall lie against any person for anything which is done in good faith or intended to be done in pursuance of this Act or the rules made thereunder.

19. *Provisions of this Act to be in addition to any other law for time being in force.*— The provisions of this act shall be in addition to the provisions of any other law for the time being in force.

20. *Power to make rules.*— (1) The Government may, subject to the previous publication, by notification in the Official Gazette, make rules to carry out all or any of the purposes of this Act.

(2) Every rule made under this section shall, as soon as may be, after it is made, be laid before the State Legislature.

21. *Power to remove difficulties.*— (1) If any difficulty arises in giving effect to any of the provisions of this Act, the Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to be necessary for removing the difficulty:

Provided that no such order shall be made after the expiration of a period of two years from the date of commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before the Legislative Assembly of Goa.

Statement of Objects and Reasons

Object and Reason.— To provide legislation for implementation of the guidelines laid down by the Hon'ble Supreme Court of India, in the case of "Kumari Madhuri Patil v/s Additional Commissioner, Tribal Development, 1994 (6) SCC 241" for verifying Caste Certificates and to regulate the process of verification of Caste Certificate issued by the Deputy Collectors and SDO of

respective Talukas by the Caste Scrutiny Committee, in order to protect and promote the rights and benefits accorded to person belonging to SC, ST and OBC communities, in matters of employment, education and electoral representation.

Financial Memorandum

No Financial Implication is involved in this bill.

Memorandum Regarding Delegated Legislation

The Memorandum regarding delegated legislation is not applicable.

Porvorim Goa. (SUBHASH PHALDESSAI)
28th July, 2023. Minister for Social Welfare.

Assembly Hall, (NAMRATA ULMAN)
Porvorim, Goa. Secretary to the
28th July, 2023. Legislative Assembly of Goa.

Notification

LA/LEGN/2023/1505

The following bill which was introduced in the Legislative Assembly of the State of Goa on 2nd August, 2023 is hereby published for general information in pursuance of Rule-138 of the Rules of Procedure and Conduct of Business of the Goa Legislative Assembly.

The Indian Stamp (Goa Second Amendment) Bill, 2023

(Bill No. 32 of 2023)

A

BILL

further to amend the Indian Stamp Act, 1899 (2 of 1899), as in force in the State of Goa.

BE it enacted by the Legislative Assembly of Goa in the Seventy-fourth Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Indian Stamp (Goa Second Amendment) Act, 2023.

(2) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

2. *Amendment of Schedule I-A.*— In Schedule I-A of the Indian Stamp Act, 1899 (2 of 1899), as in force in the State of Goa, in article 32, in clause (a), for the words “brother-in-law or sister-in-law”, the expression “brother-in-law, sister-in-law, nephew, niece, son-in-law or daughter-in-law” shall be substituted.

Statement of Objects and Reasons

The Bill seeks to amend clause (a) of article 32 of Schedule I-A to the Indian Stamp Act, 1899 (2 of 1899), as in force in the State of Goa, so as to give benefit of reduction in stamp duty, leviable on instrument of gift executed in favour of nephew, niece, son-in-law or daughter-in-law and to encourage registration of more such instruments.

This Bill seeks to achieve the above object.

Financial Memorandum

There will be impact on the State's revenue due to the proposed reduction in the stamp duty that is prescribed for 'Gift' under Article 32 of Schedule I-A of the Indian Stamp Act, 1899. However, the same cannot be quantified at this stage.

Memorandum Regarding Delegated Legislation

Clause 1 (2) of the Bill empowers the Government to issue notification for appointing date for bringing into force the Act, This delegation is a normal character.

Porvorim-Goa. (Shri. ATANASIO MONSERRATE)
31st July, 2023. Minister for Revenue.

Assembly Hall, (NAMRATA ULMAN)
Porvorim-Goa. Secretary to the Legislative
31st July, 2023. Assembly of Goa.

Governor's Recommendation under Article 207 of the Constitution of India

In pursuance of Article 207 of the Constitution of India, I, Shri P. S. Sreedharan Pillai, Governor of Goa, hereby recommend the introduction and consideration of the Indian Stamp (Goa Second Amendment) Bill, 2023, by the Legislative Assembly Goa.

Place: Raj Bhavan

Donapaul, Goa. P. S. SREEDHARAN PILLAI
31st July, 2023. Governor of Goa.

Extract of Article 32 of Schedule I-A to the Indian Stamp Act (Goa Amendment) Act 1968.

<p>“32. GIFT – Instrument of, not being a Settlement (No. 58) or Will or Transfer (No. 62),—</p> <p>(a) when executed in favour of father, mother, brother, sister, wife, husband, daughter, son, grandson, grand daughter, brother-in-law or sister-in-law.</p> <p>(b) in any other case</p>	<p>Five thousand rupees.</p> <p>The same duty as is leviable on a conveyance under clause (a) or (b), as the case may be, of article 22, on the market value of the property which is subject matter of gift.</p>
<p>HIRING AGREEMENT or agreement for service. See Agreement (No. 5)”;</p>	

Notification

LA/LEGN/2023/1506

The following bill which was introduced in the Legislative Assembly of the State of Goa on 3rd August, 2023 is hereby published for general information in pursuance of Rule-138 of the Rules of Procedure and Conduct of Business of the Goa Legislative Assembly.

The Goa Regularisation of Unauthorized
Construction (Third Amendment) Bill, 2023

(Bill No. 35 of 2023)

A

BILL

*further to amend the Goa Regularisation of
Unauthorized Construction Act, 2016 (Goa
Act 20 of 2016).*

BE it enacted by the Legislative Assembly
of Goa in the Seventy-fourth Year of the
Republic of India as follows:—

1. *Short title and commencement.*— (1) This
Act may be called the Goa Regularisation of
Unauthorized Construction (Third Amend-
ment) Act, 2023.

(2) It shall come into force on such date
as the Government may, by notification in
the Official Gazette, appoint.

2. *Amendment of section 3.*— In section 3
of the Goa Regularisation of Unauthorized
Construction Act, 2016 (Goa Act 20 of 2016),
in sub-section (1), after the existing provisos,
the following proviso shall be inserted,
namely:—

“Provided further that the person who
could not make application within a period
as specified in the third proviso may make
such application within a period of ninety
days from the date of coming into force of
the Goa Regularisation of Unauthorized
Construction (Third Amendment) Act,
2023”.

Statement of Objects and Reasons

The Bill seeks to amend section 3 of the Goa
Regularization of Unauthorized Construction
Act, 2016 (Goa Act 20 of 2016) (hereinafter
referred to as the “said Act”) so as to allow a
period of ninety days for filing of applications
seeking regularization of unauthorized
constructions under the said Act to the persons
who could not file their applications within the
time limit as allowed by the said Act.

This Bill seeks to achieve the above
object.

Financial Memorandum

No financial implications are involved in
this Bill.

Memorandum Regarding Delegated
Legislation

Clause 1 (2) of the Bill empowers the
Government to issue notification to appoint
date for bringing the Act into force.

Assembly Hall,
Porvorim-Goa. (ATANASIO MONSERRATE)
2nd August, 2023. Minister for Revenue.

Assembly Hall, (NAMRATA ULMAN)
Porvorim-Goa. Secretary to the Legislative,
2nd August, 2023. Assembly of Goa.

ANNEXURE

**Extract of Sub-Section (1) of Section 3 of the
Goa Regularisation of Unauthorized
Construction Act, 2016
(Goa Act 20 of 2016).**

3. *Regularisation of unauthorized construction.*—
(1) Any person who has carried out unauthorized
construction in the property specified herein below
before the 28th day of February, 2014, may make an
application in Form I hereto together with
application fee in the form of Court fee stamp of
rupees five, documents specified in Schedule I
hereto, sketch of the structure proposed to be
regularised alongwith dimensions to the officer as
may be authorised by the Government by
Notification in the Official Gazette, not below the
rank of Junior Scale Officer of Goa Civil Service, for
regularisation of such unauthorized construction,
within a period of 180 days from the date of coming
into force of this Act:

(a) any residential, commercial or residential
cum commercial unauthorised construction in
applicants own property or by the applicant who
is co-owner, with written consent of all other co-
owners thereto, in a property jointly held by the
applicant with such co-owners.

(b) any unauthorized construction of a
dwelling house by the applicant who is declared/
registered as mundkar under the provisions of

the Goa, Daman and Diu Mundkars (Protection from Eviction) Act, 1975 (Act No. 1 of 1976) or a farm house constructed by the applicant who is tenant or owner of an agricultural land.

(c) any unauthorized construction by the applicant in undivided property jointly held by a unit of family or families, with written consent of all other members of the family/families.

(d) any unauthorized construction carried out by an institution or a person other than an individual in its property.

(e) any unauthorized construction carried out by the applicant, in a property wholly owned by another person with the consent of such person.

“Provided that has no such written consent as referred to in clauses (a) and (c) is required where the property/land is divided/allotted between all co-owners or members of family/families by an order or decree of the Court in any proceedings or by any registered Deed or instrument”.

Provided that the person who could not make application within above period may make such application within a period of 30 days (thirty days) from the date of coming into force of the Goa Regularisation of Unauthorized Construction (Amendment) Act, 2018.

“Provided further that the person who could not make application within a period as specified in the second proviso may make such application within a period of 90 days (ninety days) from the date of coming into force of the Goa Regularisation of Unauthorized Construction (Amendment) Act, 2023”.

Notification

LA/LEGN/2023/1507

The following Bill which was introduced in the Legislative Assembly of the State of Goa on 3rd August, 2023 is hereby published for general information in pursuance of Rule-138 of the Rules of Procedure and Conduct of Business of the Goa Legislative Assembly.

The Goa Public Premises (Eviction of Unauthorised Occupants) (Amendment) Bill, 2023

(Bill No. 36 of 2023)

A

BILL

further to amend the Goa Public Premises (Eviction of Unauthorised Occupants) Act, 1988 (Goa Act No. 22 of 1988).

BE it enacted by the Legislative Assembly of Goa in the Seventy-fourth Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Goa Public Premises (Eviction of Unauthorised Occupants) (Amendment) Act, 2023.

(2) It shall come into force at once.

2. *Amendment of section 2.*— In the Goa Public Premises (Eviction of Unauthorised Occupants) Act, 1988 (Goa Act No. 22 of 1988), in section 2, in clause (e), in sub-clause (2), after item (v) the following item shall be inserted, namely:—

“(vi) premises belonging to or vested in the Administration of Comunidade, Central Zone, or the Administration of Comunidade, North Zone, or the Administration of Comunidade, South Zone.”.

Statement of Objects and Reasons

The Bill seeks to amend section 2 of the Goa Public Premises (Eviction of Unauthorised Occupants) Act, 1988 (Goa Act No. 22 of 1988) so as to bring the premises belonging to or vested in the Administration of Comunidade, Central Zone/Administration of Comunidade, North Zone/Administration of Comunidade, South Zone within the ambit of the term “public premises” as defined under the said Act for facilitating smooth and speedy eviction of unauthorized occupant of such premises under the provisions of said Act, 1988.

This Bill seeks to achieve the above object.

Financial Memorandum

No Financial implications are involved in this Bill.

Memorandum Regarding Delegated Legislation

No delegated legislation is envisaged in this Bill.

Assembly Hall, (ATANASIO MONSERRATE)
Porvorim-Goa. Minister for Revenue.
2nd August, 2023.

Assembly Hall, (NAMRATA ULMAN)
Porvorim-Goa. Secretary (Legislature)
2nd August, 2023. Assembly of Goa.

EXTRACT

The Goa Public Premises (Eviction of Unauthorised Occupants) Act, 1988

2. *Definitions.*— In this Act unless the context otherwise requires,—

(a) “estate officer” means an officer appointed by as such by the Government under Section 3;

(b) Government means Government of Goa;

(c) “premises” means any land or any building or part of building includes,—

(i) The garden, grounds and outhouses, if any, appertaining to such building or part of building, and

(ii) Any fitting affixed to such or part of building for more beneficial enjoyment thereof;

(d) “prescribed” means prescribed by rules made under this Act;

(e) “Public premises” means—

(1) any premises belonging to or taken on lease or requisitioned by or on behalf of the Government and includes any premises provided as residential accommodation to any member of the staff of the Goa State Legislature.

(2) any premises belonging to or taken on lease by or on behalf of,—

(i) any company as defined in Section 3 of Companies Act, 1956 (Central Act of 1956), in which not less than fifty one percent of the paid up share capital is held by the Government or any company which is subsidiary (within meaning of that Act) of the first mentioned Company.

(ii) any Corporation not being Company as defined in Section 3 of the Companies Act, 1956 (Central Act 1 of 1956) owned and controlled by the Government or local authority established by or under the State enactment;

(iii) Any University established by State of Goa;

(iv) Any institute established or owned by the Government;

(v) Any premises belonging to the Development Authorities/Board established under the State enactment.

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Printed and Published by the Director, Printing & Stationery,
Government Printing Press,
Mahatma Gandhi Road, Panaji-Goa 403 001.

PRICE – Rs. 61.00

PRINTED AT THE GOVERNMENT PRINTING PRESS, PANAJI-GOA—169/100—08/2023.